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MARRIED WOMEN'S
PROPERTY ACT,

1882.

J. S. RUBINSTEIN.

LONDON

WATERLOW BROS. & LAYTON.

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THE
MARRIED WOMEN'S PROPERTY ACT,
1882

(45 & 46 VIC. CAP. 75),

WITH
INTRODUCTION, SUMMARY, NOTES,
CASES AND PRECEDENTS,

AND AN
APPENDIX CONTAINING THE STATUTES RELATING TO
MARRIED WOMEN,
WITH CAREFUL CROSS-REFERENCES AND COPIOUS INDEX.

BY
J. S. RUBINSTEIN,
Solicitor of the Supreme Court.

LONDON:
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1882.



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PREFACE.

THE arrangement of the present work is as follows:—

1. The Introduction presents a general view of the law relating to the Property of Married Women and of the leading changes introduced by recent legislation, terminating with the Act of 1882.

2. A careful Summary of the Act is given section by section, followed by practical Notes.

3. The Act is printed in its entirety, with marginal references to the Summary and Notes.

4. Some recent Forms of Judgment against the separate Property of Married Women are appended.

5. Precedents of Marriage Settlements are supplied.

6. The following Acts, so far as they relate to the Property of Married Women, are printed in the Appendix:— Fines and Recovery Act, 1833; County Courts Amendment Act, 1856; Married Women's Reversionary Interest Act, 1857; Divorce and Matrimonial Causes Acts, 1858 and 1864; Naturalization Act, 1870; Married Women's Property Acts, 1870 and 1874, and the Conveyancing Acts, 1881 and 1882.

7. A full Index is added.

The above arrangement follows the plan adopted in the

Author's work on the Conveyancing Acts, 1881 and 1882, a plan which has been favourably received by the profession, and it is hoped will be received with no less favour in the case of the present work.

The Author takes this opportunity of acknowledging the valuable aid and suggestions he has received from ERNEST C. THOMAS, Esq., Barrister-at-Law, in the preparation of this work.

J. S. R.

5, *Raymond Buildings, Gray's Inn,*
October, 1882.

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MARRIED WOMEN'S PROPERTY ACT, 1882.

(45 & 46 Vic. c. 75.)

INTRODUCTION.

BEFORE proceeding to consider the effect of the recent enactment upon the general law relating to the property of married women and their rights and liabilities in respect of it, it will be convenient to review shortly (1) the common law doctrine upon the subject; (2) the history and nature of the equitable doctrine of a married woman's separate property; and (3) the several statutory extensions of the doctrine of separate property.

(1) *Common Law Doctrine.*

At common law the effect of marriage was, and still is for many purposes, to merge the very being or legal existence of the wife in that of the husband, under whose cover and influence she was supposed to perform everything. In consequence of this doctrine of the union of person in husband and wife, the husband could not at common law grant anything to his wife or covenant with her, for this would be to imply

her separate existence. And for the same reason compacts entered into between husband and wife before marriage were, generally speaking, rendered void by the intermarriage.

The husband became entitled on the marriage to receive the profits of the wife's real estate during the coverture. This interest he could alienate, though for the alienation of it both the concurrence of husband and wife was necessary. The marriage operated as an absolute gift of the wife's personal estate to her husband, whether it was already in her possession or subsequently acquired.

If the wife was injured in her person or property, she could only bring an action with her husband's concurrence, and it must be brought in his name, while the damages or costs recovered were his property. Conversely indeed, she could not be sued without her husband being joined as a defendant. The husband was liable for his wife's ante-nuptial liabilities, for he had adopted her and her circumstances together. The husband was also bound by law to provide his wife with necessaries, and was also bound to pay any debts which she might contract for necessaries. No such liability was imposed upon the wife in respect of the husband. The husband was further liable at law for the support of his wife's children.

(2) *Equitable Doctrine of Separate Estate.*

The harsh and one-sided doctrines of the common law, however well suited they may have been to ruder and less peaceful times, were little adapted to the needs of a more refined society. It became more and more essential to protect married women against the cruelty, or extravagance, or losses of their husbands, and the Courts of Equity accordingly set up and worked out the doctrine of the wife's separate estate. The principle of the separate use for the benefit of a wife is obviously only a branch of uses in general. Some of the earliest cases in which the

principle was asserted reach back at least to the time of James I. but the working out of the doctrine belongs to a later age.

The Courts of Equity considered a married woman capable of acquiring property to her own use, independently of her husband, and over this property she had complete control, including the power to dispose of it. This separate estate might be created in various ways. One of the commonest ways was by an antenuptial agreement with the intended husband, which agreement was enforced by equity. Under certain circumstances a postnuptial agreement could be made between husband and wife with the same result. The wife might also hold for her separate use any gifts, whether from her husband or from strangers, which were made to her absolutely. But the most frequent way of establishing separate estate was by express limitation, whether by devise or otherwise. In these cases the legal property was usually vested in trustees, and it was formerly supposed, indeed, that trustees were indispensable, but this has now long been settled not to be so. No particular form of words was necessary to create this separate use, though there must be no doubt of the intention to exclude the husband's legal rights.

The extent of the married woman's power of disposition over her separate property was stated by Lord Hardwicke^(a) and restated by Lord Thurlow^(b) as follows: "A *feme covert* acting with respect to her separate property is competent to act in all respects as if she was a *feme sole*." She may dispose of her personal property, whether in possession or reversion, with the same freedom as if she were *sui juris*, and so also of her life interest in real estate. But she cannot dispose of the legal estate in real property settled to her separate use, without

(a) In *Peacock v. Monk*: 2 Ves. 190.

(b) In *Hulme v. Tenant* (1 Bro. C. C. 16), 1 W. & T. 521.

the concurrence of the person or persons in whom that estate is vested. And it has only been recently decided^(a) that she may dispose of the equitable estate either by will or by a deed without acknowledgment, and this whether trustees are interposed or not, and such a disposition bars the husband's right to his curtesy by the law of England.

Although the Courts of Equity early allowed property to be held by a married woman as a *feme sole*, they have been very slow in granting her the corresponding right to contract so as to bind her separate estate. Not content with protecting her property against her husband, they continued, with less reason, to protect it against her creditors. At first, however, it was held that her separate estate might be bound by an instrument under seal.^(b) After a time this was extended so as to include instruments of a less formal character, such as bonds, bills or notes.^(c) Finally it has been extended to written and even verbal agreements.^(d)

The principle was well expressed by Kindersley, V.-C., in *Mrs. Matthewman's Case*,^(e) following the judgment of Turner, L. J., in *Johnson v. Gallagher*,^(f) "If a married woman, having separate property, enters into a pecuniary engagement, whether by ordering goods or otherwise, which if she were a *feme sole* would constitute her a debtor, and in entering into such engagement she purports to contract, not for her husband, but for herself, and on the credit of her separate estate, and it was so intended by her and so understood by the person with whom she is contracting, that constitutes an obligation for which the

(a) *Taylor v. Meads*, 34 L. J. Ch. 203. Comp. *Pride v. Bubbs*, L. R. 7 Ch. 64.

(b) *Hulme v. Tenant*, 1 W. & T. 521; *Heatley v. Thomas*, 15 Ves. 596.

(c) *Murray v. Barlee*, 3 My. & K. 220; *Picard v. Hine*, L. R. 5 Ch. 274.

(d) *Vaughan v. Vanderstegen*, 2 Drew. 182; *Johnson v. Gallagher*, 3 De G. F. & J. 494.

(e) L. R. 3 Eq. at 787.

(f) 3 De G. F. & J. at 514.

person with whom she contracts has the right to make her separate estate liable; and the question whether the obligation was contracted in the manner I have mentioned must depend upon the facts and circumstances of each particular case. It clearly is not necessary that the contract should be in writing, because it is now admitted that if a married woman enters into a verbal contract expressly making her separate estate liable, such contract would bind it; nor is it necessary that there should be any express reference made to the fact of there being such separate estate, for a bond or promissory note given by a married woman, without any mention of her separate estate, has long been held sufficient to make her separate estate liable. If the circumstances are such as to lead to the conclusion that she was contracting, not for her husband, but for herself, in respect of her separate estate, that separate estate will be liable to satisfy the obligation."

Where husband and wife were living separately, and the wife had separate estate and contracted debts, the Court would presume that she intended to deal with her separate estate, unless the contrary was clearly proved.^(a) But if the husband and wife were living together, this circumstance threw upon the creditors the onus of proving that the married woman intended to charge her separate estate.^(b)

In one very important point the rights of a married woman over her separate property differed from those of a *feme sole*—viz., in its liability to the restraint upon anticipation. In order to protect her property against undue influence on the part of her husband or others, as well as against her own imprudence, it was usual to insert in wills and settlements a clause restraining a woman, married or to be married, from anticipating or

(a) *Johnson v. Gallagher*, loc. cit.

(b) *Bromley v. Norton*, 21 W. R. 155.

alienating the property bestowed upon her, and this restraint was enforced by Courts of equity.^(a) Where she is so restrained, her engagement with reference to the property so settled is *nudum pactum*, and, even when she has become discovert the property cannot be reached, unless since the termination of the coverture she has ratified the contract.^(b) The restraint on anticipation being annexed to the separate estate, can exist only during coverture, and accordingly, when discovert, the woman has a power of alienation. Upon a subsequent marriage, indeed, the separate estate and the restraint upon anticipation again revive,^(c) unless in the interval she has so exercised her power of alienation as to determine the trust, and thus acquired the property unfettered by any trust or restraint;^(d) and the restraint upon alienation was so firm that not even the Courts of equity could dispense with it.^(e)

A question which has led to considerable discussion is, whether the exercise by a married woman of a power of appointment over property would make the appointed property assets for the payment of her debts. It had been decided that it would not, unless there had been fraud, though the effect of the decision was a good deal modified by later cases, until Hall, V.-C., decided that the funds so appointed would be liable to her creditors as against volunteers.^(f)

So much for the doctrine of the separate estate of married women, as it was worked out and administered by the Courts of equity. We have now to trace the steps by which this doctrine has been adopted by the common law through legislative enactments.

(a) Clive v. Carew, 1 J. & H. 109.

(b) Roberts v. Watkins, 46 L. J. Q. B. 552.

(c) See Tullett v. Armstrong, 1 Beav. 1.

(d) Wright v. Wright, 2 J. & H. 655.

(e) Robinson v. Wheelwright, 21 Beav. 214.

(f) Vaughan v. Vanderstegen, 2 Drew. 363; London Ch. Bank of Australia v. Lemprière, L. R. 4 P. C. 572; Shattock v. Shattock, L. R. 2 Eq. 196.

(3) *Statutory Extensions of the Doctrine of Separate Estate.*

DIVORCE ACTS.

The first of the enactments by which the equitable doctrine of separate estate was introduced into the common law was the Divorce and Matrimonial Causes Act of 1857 (20 & 21 Vic. cap. 85), together with the amending Acts (21 & 22 Vic. cap. 108, and 27 & 28 Vic. cap. 44).

By these Acts it was provided that upon a decree for judicial separation, the wife, so long as the separation continues, should be considered as a *feme sole* with respect to property of every description which she might acquire; and that in the event of her again cohabiting with her husband, all such property as she should then be entitled to should be held to her separate use. The wife, while separated, was moreover to be considered a *feme sole* for the purposes of contract and wrongs, and suing and being sued in any civil proceeding. It was also provided that a married woman deserted by her husband might obtain from the Court, or (if resident in the metropolitan district) from a police magistrate, or (if in the country) from justices in petty sessions an order to protect any money or property she might acquire by her own *lawful industry*, and property which she might become possessed of after such desertion, against her husband or his creditors, &c.; the effect of which would be that such earnings and property belonged to the wife as if she were a *feme sole*, and by the amending Act these provisions were extended to property of which the wife was entitled as executrix, administratrix or trustee.^(a)

These enactments, it should be observed, do little more than

(a) The latest decisions on these Acts are *re* Coward and Adam's Purchase, L. R. 20 Eq. 179; in the goods of Ann Elliott, L. R. 2 P. & M. 274; *Ewart v. Chubb*, L. R. 20 Eq. 454.

to recognise legally, what is in point of fact, the position of a woman deserted by her husband, as a *feme sole*. At equity, independently of these statutes, a married woman who had been deserted by her husband would have property coming to her after the desertion secured to her for her separate use.^(a) And at law a married woman whose husband was civilly dead, as when he was a convicted felon or an alien husband abroad, might contract and sue and be sued as if she were a *feme sole*.

MARRIED WOMEN'S PROPERTY ACTS, 1870 AND 1874.

By the Married Women's Property Act of 1870 (33 & 34 Vic. c. 93), the doctrine of separate property was extended to certain kinds of property to which a married woman might become entitled while under coverture, whether living with her husband or not.

In the first place, the wages and earnings of a married woman carrying on any employment separately from her husband, or any money or property acquired by the exercise of any literary, artistic, or scientific skill, were to be deemed property held and settled to her separate use, as well as all investments of them.

The deposits and investments in the funds of a married woman in her own name were also to be deemed her separate property, and accounted for and paid to her as if she were an unmarried woman.

A married woman might also hold shares, debentures, &c., in any incorporated or joint-stock Company, or in any duly registered friendly or benefit Society, to the holding of which no liability was attached, on such shares or debentures, &c., being registered in her name as a married woman, entitled to her separate use.

(a) *Cecil v. Juxon*, 1 Atk. 278; *re Pope's Trusts*, 21 W. R. 646.

In all these cases provision was made against any fraud upon the husband or upon the husband's creditors.

It was further provided, that where any woman married after the passing of the Act became entitled to any personal property devolving upon *ab intestato*, or under any deed or will, to any sum of money not exceeding £200, she should hold it to her separate use, subject to any trusts affecting it. The rents and profits of any real property descending to her were also to belong to her for her separate use, subject to any trusts affecting it.

A married woman was enabled to insure her own life or the life of her husband for her own separate use, if it were so expressed upon the face of the policy.

She was further enabled to maintain an action in her own name for the recovery of any property by the Act declared to be her separate property, or of any property belonging to her before marriage, and which her husband had in writing agreed should belong to her after marriage as her separate property, and she was entitled to the same remedies against all persons for the protection of such property as if she were an unmarried woman.

The married woman was herself to be liable to be sued for her ante-nuptial debts, and her separate property liable to satisfy them, while any husband married after the Act was not to be liable for his wife's ante-nuptial debts.

A further liability was imposed upon a married woman having separate property for the maintenance of her husband if he became chargeable to any union or parish, and she was to be liable for the maintenance of her children as a widow would be.

The enactment that a husband should be no longer liable for his wife's ante-nuptial debts while the property belonging to

the wife still passed to him on marriage being found to work injustice, by the Amending Act of 1874 (37 & 38 Vic. c. 50) so much of the former Act was repealed as respected marriages after the passing of the amending Act (30th July, 1874), and it was provided that husband and wife might be jointly sued for such debts. It was at the same time provided that the husband should be only liable for his wife's ante-nuptial torts or contracts to the extent of the property of the wife in which he had acquired an interest by his marriage, subject to a deduction for any debts he had paid of his wife's, or in respect of which he had had judgment recovered against him.

MARRIED WOMEN'S PROPERTY ACT, 1882 (45 & 46 VIC. c. 75).

By the Act of 1882, which is a consolidating and amending Act, the provisions of the earlier Acts are considerably extended, and those Acts are repealed with a saving of all acts, rights and liabilities done or accrued while those Acts were in force.

A woman who marries after the commencement of the Act, is to be entitled to hold as her separate property, and to dispose by will or otherwise, and without the intervention of trustees, of all real and personal property which shall belong to her at the time of her marriage, or shall be acquired by her after marriage, including any earnings and property acquired by her in any separate employment, or by the exercise of any literary, artistic or scientific skill (ss. 1 & 2).

A woman married before the commencement of the Act will be equally entitled to and have the same rights over all property her title to which accrues after the commencement of the Act (ss. 1, 2, 5).

Deposits, annuities, stocks, etc., and shares, debentures, etc., in any company or benefit society which are standing in her name shall be deemed, unless the contrary is shown, to be the

separate property of such married woman, and the fact of their so standing is to authorise her to receive or transfer the same, and to receive the dividends, etc., thereof without the concurrence of her husband, and to indemnify the payers, etc., in respect thereof. And so far as any liability is incident to any such stocks, shares, etc., which shall after the commencement of this Act be allotted to or registered in the sole name of any married woman, her separate estate shall alone be liable (ss. 6, 7, 9).

These provisions extend also to the case of investments standing in the name of a married woman jointly with any person or persons other than her husband (8).

Provision is made against fraudulent investments by a married woman in fraud of her husband or by gifts of a husband to his wife, or investments by him in her name in fraud of his creditors (s. 10).

It is also provided that loans by the wife to her husband are to be treated as his assets in case of bankruptcy, and the wife's claim to a dividend is to be postponed until all claims of the husband's other creditors have been satisfied (s. 3).

The execution of a general power by will by a married woman is to make the appointed property liable for her debts and other liabilities (s. 4).

In respect of and to the extent of her separate property, a married woman is to be capable of contracting, and of suing and being sued in contract or tort as if she were a *feme sole*; and her husband need not be made a party to any proceeding by or against her, and any damages or costs recovered by her are to be her separate property, while those recovered against her are to be payable only out of her separate property (ss. 1, 2).

Every contract entered into by a married woman is to be deemed a contract with respect to, and to bind her separate property, unless the contrary is shown, and shall bind not only

the separate property which she possessed at the time of contracting, but also all which she may afterwards acquire (s. 1 (3, 4)).

If trading separately, a married woman is, in respect of her separate property, to be subject to the bankruptcy laws. (s. 1 (5)).

Every married woman is to have in her own name the same remedies, civil or criminal, against all persons (including her husband), for the protection of her separate property, as if she were a *feme sole* except that no husband or wife shall be entitled, save as aforesaid, to sue each other for tort, nor may a wife take criminal proceedings against her husband for anything done by him concerning property claimed by her, unless such property was wrongfully taken by him when leaving or deserting her (s. 12). The wife is, under similar circumstances, to be liable to criminal proceedings by the husband (s. 16). Husband and wife are to be competent to give evidence against each other.

A woman is, after her marriage, to continue liable in respect of her separate property for her ante-nuptial debts and liability including any sums for which she may be liable, as a contributory or otherwise, under the Joint-stock Companies' Acts, and as between her and husband, her separate property is to be deemed primarily liable for such liability (s. 13, 7). The husband is to be liable for his wife's ante-nuptial liabilities as aforesaid to the extent of all property belonging to his wife which he shall have acquired from or through her, after deducting any payments made by him or the amount of judgment bona fide recovered against him in respect of them (s. 14). The husband and wife may be jointly sued in respect of such liability; but if he be not found liable he is to have his costs, whatever may be the result of the action against his wife (s. 15). The liability of husbands and wives married before this Act is to be

affected by this Act, as regards any property to which the wife may become entitled, only by virtue of this Act (ss. 13, 14).

A married woman, having separate property, is to be liable to the parish for the maintenance of her husband, and shall be liable for the maintenance of her children and grand-children.

A married woman may effect a policy of assurance upon her own life or her husband's for her separate use. Provision is also made to enable a man to insure his life for the benefit of his wife and children, or a woman to insure her life for the benefit of her husband and children in such a way as to create a trust, so that the moneys payable shall not form part of the estate of the insured so long as any object of the trust remains unperformed. Provision is also made for the appointment of trustees and for the rights of creditors (s. 11).

A married woman may be an executrix, administratrix or trustee, and in that character may sue or be sued, and may transfer property without her husband (s. 18, 24).

All existing or future settlements are saved, but it is provided that no restraint upon anticipation imposed by a woman upon herself shall be valid against her ante-nuptial debts, and no settlement has greater force against her creditors than a like settlement by a man would have (s. 19).

A married woman's legal personal representative shall in respect of her separate estate have the same rights and liabilities as she would have if living (s. 22).

Provision is finally made for the summary decision of questions as to property arising between husband and wife (s. 17).

Notes upon the several sections and sub-sections of the Act will be found appended to the Summary given in the following pages. Here it is proposed to offer a few general observations.

The first point to call for remark is the extremely ambiguous character of much of the language employed in this

Act. This has already led to much difference of opinion, and it must be presumed, therefore, to some misunderstanding. It is to be explained no doubt partly by the limited attention which Parliament was able to devote to the measure in the late session. These ambiguities of language make it very difficult for an expositor of the Act to be confident as to his interpretation of some of the most important sections, and even as to the general scope of the Act considerable difference of opinion will probably be found.

If the view taken in the following pages be correct, as will appear from what has been already said, the Act, though it considerably extends the alterations introduced into the law by the Acts of 1870 and 1874, is not so sweeping or so revolutionary of the common law doctrines as has been suggested.

The effect of the Act is, it is submitted, not to reverse the common law, and indeed also the equity, doctrine of the personal immunity of a married woman, and of her incapacity to bind herself by a personal obligation. The object of the Act seems, on the contrary, to be to extend the notion of separate estate, so that the possession of some separate estate by a married woman will still be necessary as a foundation upon which to rest the whole structure of rights and liabilities erected by the Act.

It is true that the idea of separate property is so extended, and there are now so many ways in which it may be acquired, that it almost appears as though every married woman may be presumed to have some. But some separate property there must be, in order that she may be endowed with the rights and burdened with the liabilities created by the Act. If there is none, then the doctrines of personal immunity and personal incapacity will still govern the married woman's legal position.

On any other view than this it will be very difficult, if not impossible, to explain and justify the general language of the

Act, the constant repetition of the words "in respect of and to the extent of her separate property," and what looks like the careful avoidance of words pointing to personal liability on the part of the married woman. In particular should be noticed the words in sec. 15 as to the form of judgment when the husband and wife are both found to be liable for the wife's antenuptial liabilities. There is to be a joint judgment "against the husband *personally*, and against the wife *as to her separate property*;" and as to the residue, if any, the judgment is to be a separate judgment "against the wife as to her separate property only." And again, except on this view, why is it that a married woman who is not trading may not be made a bankrupt, and that sub-sec. 5 only renders the separate estate of a married woman *trader* subject to the Bankruptcy Laws?

The general result of this view of the Act, as it bears upon the respective liabilities of husband and wife, may be thus briefly stated: Where a married woman has no separate property, she will be still incapable of contracting (except as agent for her husband), or of being sued in tort, her husband being the only person who can be sued in respect of torts committed by her.

Where, on the other hand, the married woman has separate property, she will now be capable of contracting, and of suing or being sued in tort in respect of and to the extent of her separate property. As to her general engagements, she may make her separate estate liable for them, and, *primâ facie*, it will be so without her expressly doing so. As to general torts, since a right to sue in tort is a chose in action, which may be acquired under the provisions of this Act by a married woman, like any other property, it appears that she will herself be entitled to sue upon general torts committed against her. But she cannot, it appears, be sued upon general torts committed by her, and for these her husband will still be liable. Besides the liability for his wife's general torts committed during the coverture, he is

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SUMMARY AND NOTES.

also liable to the extent of all property which he may have acquired through his wife for her ante-nuptial debts, contracts and torts. Nor is it altogether certain that the husband's liability for all his wife's torts will not remain, although it would be manifestly contrary to the spirit of the Act to hold the husband responsible for torts committed by the wife in respect of her separate estate. It seems unreasonable that the husband, who now, in the absence of settlements, can hardly acquire any property through his wife, should continue liable for her torts. The reason for the common law rule, which imposed upon the husband all the liabilities of the wife, viz., his acquisition of all her property upon the marriage, being now gone, it might have been expected that the legislature would also abolish the rule itself.

It will appear from what has been said, that the Act is neither so sweeping nor so logical as has been represented. Married women are still far from having acquired the independent status of the *feme sole*. On the contrary, their possession of rights is still in a large degree dependent upon their possession of separate property, and is limited by its extent. The law relating to the property of married women is still unsimplified and anomalous, consisting partly of the old common law doctrines and partly of the devices of equity for evading them. Taking this state of things into account, and the equivocal character of much of the phraseology of the Act, it seems not very unsafe to prophesy that the Act will give rise to a great amount of litigation to determine its meaning, and that the present will probably not be the last controversy upon the subject.

SUMMARY AND NOTES

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SUMMARY AND NOTES.

MARRIED WOMEN'S PROPERTY ACT, 1882

(45 & 46 VIC., c. 75).

SUMMARY AND NOTES.

THE object of the Act is to consolidate and amend the Acts relating to the property of married women. Object of the Act.

A married woman can acquire, hold and dispose by will or otherwise of any real or personal property as if she were a *feme sole*, without the intervention of a trustee. Sec. 1. Sub-sec. 1, p. 53. Married woman to be capable of holding property as a *feme sole*.

The effect of this section is to do away with the necessity of trustees in order to enable married women to enjoy full rights over their separate property, so that henceforth the legal as well as the equitable estate will be in them. Trustees will still be necessary, however, in the case of settlements which, whether existing or future, are expressly saved by sec. 19; and restrictions upon anticipation will still continue to be made in order to protect married women against "themselves." A married woman will be able to dispose of her property and to convey the legal estate as if she were a *feme sole*.

As, however, the Coveyancing Act, 1882, which is to come into operation at the same date as the present Act, contains provisions for the simplification of acknowledgments by married women under the Fines and Recoveries Act (3 & 4 Will. IV. c. 74), it is to be presumed

that, notwithstanding the present section, dispositions by deed by married women of their freehold property must still be acknowledged. By Malins' Act (20 and 21 Vic. c. 57), which enabled married women to dispose of their reversionary interest by deed duly acknowledged, it is directed that the deeds must be acknowledged and otherwise perfected in the manner prescribed by the Fines and Recoveries Act. It is presumed that in the case of reversionary interests also deeds must still be acknowledged; and as to the manner in which this is to be done, it is further presumed, although the Conveyancing Act, 1882, makes no mention of Malins' Act, that the three statutes must be read together.

Sub-sec. 2,
p. 63.
A married
woman can
contract and
sue and be sued
as a *feme sole*.
Husband need
not be a party.
Money recovered
to be her
separate property
or payable
thereout.

A married woman can contract in respect of and to the extent of her separate property, and sue and be sued either in contract or in tort as a *feme sole*, and her husband need not be a party to any action brought by or against her, and any money recovered by her in any such action shall be her separate property, and any money recovered against her shall be payable out of her separate property, and not otherwise.

The language of this sub-section is not so clear and explicit as might be desired, and it is difficult to say confidently what will be its effect upon the old doctrine of a married woman's personal immunity. It will probably be held, however, that the sub-section only applies to married women who have some separate property, so that when the married woman has no separate property, the immunity of the wife and the liability of the husband will remain as before the Act. In cases where it is uncertain whether the wife has any separate property or not, it will be desirable to join the husband and wife as co-defendants, which they may now be.

Under the old law, the married woman could not render herself *personally* liable, but could only bind her separate estate (Pike v. Fitzgibbon, L. R. 17 Ch. D. 454; Atwood v. Chichester, L. R. 3 Q. B. D. 722; Davies v. Ballenden, W. N. 1882, p. 92), and it does not seem altogether certain how far she will be liable to judgment against her personally. The general language of the present Act, and especially the careful distinction in sec. 15 between judgment "against the husband personally" and "against the wife as to her separate property only" suggest considerable doubt.

Another point as to which considerable difficulty may be anticipated is, whether a married woman's separate property will now be liable for her general contracts and torts. (See Hulme v. Tenant, 12 L. T. 521; Johnson v. Gallagher, 3 De G. F. & J. 494; Lond. C. Bank of Australia v. Lempriere, L. R. 4 P. C. 572.) A brief statement of the law before the Act may be

conveniently taken from a judgment of the present Master of the Rolls, in *Wainford v. Heyl*, L. R. 20 Eq. 321: "A married woman is liable, or rather her separate estate is liable (for there is no personal liability so far as she is concerned), to make good all contracts which are made by her with express reference to the separate estate, or which, from the nature of the contract itself, must be intended to be so referred, but she is not liable even for general contracts which from their nature cannot be so referred; *a fortiori*, she is not liable for general torts, but her husband is liable. Her separate estate may be liable for a fraud relating to the separate estate, that is, dealing with the separate estate by way of fraudulent representation. Again, the estate may be made liable for an actual appropriation of funds, subject to the same settlement and the same trusts which create the separate estate. But apart from such cases as these, one cannot see why she should be made liable for general torts in reference to trusts any more than for general torts at law. Strictly speaking, she cannot commit torts; they are torts of her husband."

It is submitted that the effect of the present Act is not to extend the legal liability of the married woman so as to make her separate estate liable for her general contracts, and still less to make the separate estate liable for her general torts.

It is clear, however, that the married woman may expressly charge her separate property with her general engagements, and as, by sub-sec. 3, every contract entered into by her shall be *prima facie* taken to be a contract entered with respect to her separate property, though the contrary may be shown, it appears that in effect her power to contract will be limited only by the extent of her separate property.

The husband remains liable in damages for his wife's torts so long as the marriage continues, even though they are living apart. But his liability ceases on the dissolution of the marriage, even for a tort committed during its continuance (*Capel v. Powell*, 34 L. J. C. P. 168), and it appears doubtful whether a remedy then remains even against the wife (*Vine v. Saunders*, 4 Bing. N. C. 96). Under the provisions of the present Act the liability for special torts will be upon the wife's separate property, but it is not clear that the Act makes her separate estate liable for her general torts (see *Wainford v. Heyl*, L. R. 20 Eq. 321; *Arnold v. Woodhams*, 16 Eq. 29; *Keys v. Lane*, I. R. 3 Eq. 1), nor is there anything in the Act which expressly takes away the husband's liability for his wife's torts, so that where the wife has no separate property, or where she has, in the case of general torts, the husband's liability apparently continues. It is conceived that, inasmuch as the right to sue in tort is a chose in action (*Williams*, P. P., 11 ed., 4), and a chose in action may be acquired by a married woman for her separate use like any other property

(*see* sec. 24), the husband acquires no interest therein, and is not therefore a proper person to sue or to join in suing for a tort committed against his wife, and the damages recovered will be the separate property of the wife.

Under the old law it was generally necessary to join the husband as a party in proceedings by or against the wife. Even under the Act of 1870 she could not be sued alone, in respect of her separate estate under the Act (*Hancock v. Lablache*, L. R. 3 C. P. D. 197; *Noel v. Noel*, 13 Ch. D. 520), except for ante-nuptial debts, for which the husband was not liable (*Williams v. Mercier*, L. R. 9 Q. B. D. 337). Henceforth the married woman may sue or be sued without husband or next friend.

As a married woman's right to sue in contract depends, it is conceived, upon whether or not she has separate property, an interrogatory as to her possession of such separate property, and for discovery, can perhaps hardly be deemed irrelevant; and if it should appear that there is no substantial separate estate, the proper course will be to make an application that the married woman may give security for costs under Ord. XVI. R. 8 (*Martano v. Mann*, L. R. 14 Ch. D. 419 C. A.; *Brown v. North*, L. R. 7 Q. B. D. 52; *Noel v. Noel*, 13 Ch. D. 520).

For the interpretation of the term "contract" in the Act, compare sec. 24 (p. 47).

Sub-sec. 3,
p. 64.
Contract by
married woman
to bind her sepa-
rate property.

A married woman contracting shall be deemed to bind her separate property unless the contrary be shown.

Before this Act the presumption was that a married woman's separate estate was not liable unless she contracted with express reference to it, or the nature of the contract showed that it must be so referred. *Hulme v. Tenant* (1 W. & T. 521) decided that a bond, bill or note given by a married woman must be so referred (cf. *Mrs. Matthewman's case*, L. R. 3 Eq. 781), and the doctrine has since been extended, but "it should appear that the engagement was made with reference to and upon the faith or credit of that estate, and that whether it was so or not, is a question to be judged of by the Court on all the circumstances of the case" (*Johnson v. Gallagher*, 3 De G. F. & J. 494).

After the commencement of this Act, however, if a married woman (presumably, although the words of the sub-sec. do not say so, a married woman *having separate property*) contracts, the onus of showing that she has not contracted with respect to her separate property will be upon her. At the same time it can hardly have been intended to limit the wife's power of contracting as her husband's agent, and in a considerable number of cases the presumption of fact will still be that she is binding not her separate property but her husband.

For the limits of the wife's authority to pledge her husband's credit *see* Jolly *v.* Rees, 33 L. J. C. P. 177, and Debenham *v.* Mellon, 6 App. Cas. 24.

A contract by a married woman to bind her separate property shall bind not only her present but also any future separate property which she may acquire.

Sub-sec. 4,
p. 54.
After-acquired
separate pro-
perty also to be
bound.

This sub-section reverses the rule laid down in Pike *v.* Fitzgibbon (17 Ch. D. 454), that the contract of a married woman does not bind separate property acquired after the date of the contract. It should be observed that the case of liability for torts is not provided for.

A married woman carrying on a trade separately from her husband shall, in respect of her separate property, be subject to the bankruptcy laws as if she were a *feme sole*.

Sub-sec. 5,
p. 54.
Married women
traders to be
subject to the
bankruptcy
laws.

The question whether a married woman could be made a bankrupt was discussed in *ex p.* Holland in *re* Heneage, L. R. 9 Ch. 307. Here the married woman had been sued for an ante-nuptial debt, under the Act of 1870, and it was sought to make her a bankrupt. The married woman had no separate estate, and it was suggested by Mellish, L. J., that if a married woman had separate property, she might, perhaps, be made a bankrupt. The question was set at rest by *ex p.* Jones in *re* Grissell (L. R. 12 Ch. D. 484), when it was finally decided that she could not.

By the custom of the City of London, a married woman who is a sole trader is liable to be made a bankrupt. (*Lavie v. Phillips*, 3 Burr. 776).

It is observable that the present sub-section only applies to a married woman if she is "carrying on a trade separately from her husband," so that if she were trading in partnership with her husband it would not apply. And it will not apply of course where the married woman is not carrying on a trade.

Whether a married woman is trading "separately from her husband" or not, is a question of evidence to be determined on the circumstances of the case. (*Smallpiece v. Dawes*, 7 C. & P. 40.) A husband is not liable for the debts incurred by his wife in a separate business; when, however, he has so intermeddled in the business as to make himself personally liable, there is no separate trading. (*Petty v. Anderson*, 3 Bing. 170; *Laporte v. Costick*, 23 W. R. 131, 31 L. T. 434). The opinion of Bovill, C. J., in *Phillipson v. Hayter*, 6 C. P. 38, where it was held that a wife has implied authority to pledge her husband's credit for goods, if she carries on a separate trade with the concurrence of her husband, suitable for such trade, will hardly be held to be more than a dictum, and is obviously inconsistent with the spirit of the present Act.

Sec. 2,
p. 54.
Present and
after-acquired
property of a
woman married
after the Act to
be her separate
property.

A woman who marries after the commencement of the Act shall hold as her separate property, and can dispose of all real and personal property belonging to her at the time of her marriage, or which shall be acquired by or devolve upon her after marriage, including any earnings and property gained in any employment in which she is engaged, or which she carries on separately from her husband, or by the exercise of any literary, artistic, or scientific skill.

This section applies to women married after the commencement of the Act, *i.e.*, 1st January, 1883. (For the case of property accruing after the commencement of the Act to women married before the commencement, *see* sec. 5.) The effect of the section is actually to bestow upon married women the property which, by sec. 1, they are rendered "capable" of acquiring.

Gifts of chattels to a married woman will probably be held to be within this section. In *Graham v. Londonderry*, 3 Atk. 393, Lord Chancellor Hardwicke expressed the rule to be that presents from a stranger during coverture must be construed as a gift to the separate use. In the recent Irish case of *Fitzgibbon v. Pike*, L. R. I. 6 C. L. 487, it was said by Lawson, J., "there is no authority in the books that a gift of a chattel to a wife by a stranger, without any expressed intention, will enure to her separate use, except a dictum of Lord Hardwicke in *Graham v. Londonderry*."

The words "in manner aforesaid" refer to sec. 1, and mean that she may hold without the intervention of a trustee, and dispose of by will or otherwise as if she were a *feme sole*.

As to separate employment, &c., *see* note to sec. 1, sub-sec. 5.

Sec. 3,
p. 54.
Loans by wife
to husband to
be treated as his
assets in case
of bankruptcy.
Wife entitled to
a dividend after
creditors
satisfied.

Any property of a wife lent or entrusted to a husband for the purpose of his business or otherwise, shall, in case of his bankruptcy, be treated as his assets, reserving the wife's claim to a dividend as a creditor for the value of the property after all claims of the other creditors have been satisfied.

Money lent to a husband by his wife for the purposes of his business would naturally form part of his assets in the event of his bankruptcy in the same way as money advanced by any other person, and there is accordingly, so far, no new principle introduced into the law. The principle of postponement of the wife's claims appears to have been adopted from the Partnership Act, 1865 (28 & 29 Vic. c. 36). In the cases there provided for, however, it was necessary that the money should have been lent in consideration of receiving a

share of the profits, or a rate of interest varying with the profits. The principle seems to have been imported into the present Act with the view of preventing collusion between husband and wife in fraud of the husband's creditors. It has been decided, under the Partnership Act, that the lender is not meant to be deprived by it of any security he may have taken. (*Exp. Shiel in re Lonergan*, C. A., L. R. 4 Ch. D. 789).

It was already held in *Woodward v. Woodward*, 3 D. J. & S. 672, that when a married woman had made a loan to her husband out of her separate estate, she could prove as a creditor against his estate in an administration suit. After this Act, of course, she will be postponed to the other creditors. It should be observed that a wife holding her separate property without the intervention of trustees will be in a worse position in this respect than a woman whose trustees have made an advance to her husband, as they would presumably still rank with the other creditors.

A question may arise whether the bankrupt's wife can prove with the other creditors, and have a voice in the proceedings, but it appears not (comp. *ex p. Taylor in re Grason*, L. R. 12 Ch. D. 366).

The words "or otherwise" seem to indicate that the section is intended to apply to loans made to the husband for any purpose, and not merely for the purposes of his business.

The execution by a married woman of a general power to appoint by will shall render the property appointed liable for her debts and liabilities, in the same manner as her separate estate is made liable under the Act.

Sec. 4,
p. 55.
Execution of
general power
by will to make
property ap-
pointed liable
for debts.

This section deals only with appointments by will, because, under the existing law, property appointed by deed becomes subject to the debts and other liabilities of a married woman. In *Godfrey v. Harben*, 13 Ch. D. 216, indeed, Hall, V.-C., decided that when a married woman had a general power of appointment by will and exercised it, that the property appointed would be liable to her general engagements. The doubt subsequently thrown upon this decision in *Pike v. Fitzgibbon*, 17 Ch. D. 466, is set at rest by the present enactment.

Where, however, there is a restraint upon anticipation, the married woman's separate property is not so liable, even when there is fraud (*Thomas v. Price*, 6 L. J. Ch. 761; *Stanley v. Stanley*, 7 Ch. D. 589).

A woman married before the commencement of the Act shall hold and dispose of as her separate property all real and personal property her title to which shall accrue after the commencement of this Act, including any

Sec. 5,
p. 55.
Property
acquired after
the Act by a
woman married
before, to be
her separate
property.

earnings and property so gained or acquired by her as aforesaid.

The words "in manner aforesaid" refer to sec. 1, sub-sec. 1; the words "as aforesaid" to the last words of sec. 2. The present section confers upon women married before 1st January, 1883, the same rights as to property acquired after the Act, which by sec. 2 are conferred upon women married after 1st January, 1883. The Act of 1870, although repealed as from 1st January, 1883, will still govern the rights of a woman married before that date as to property which accrued before 1st January, 1883.

For the necessity of acknowledgments in disposing of property under this section, *see* note to sec 1, sub.-sec. 1.

Sec. 6,
p. 55.
Deposits,
annuities,
stocks, and
shares standing
in the name of a
married woman
to be deemed
her separate
property.

Deposits in any post office, savings or other bank, and Government or other annuities, and all stocks transferable in the books of the Bank of England or of any other bank, which, at the commencement of the Act, are standing in the sole name of a married woman; and all shares or other interests in any corporation, company, or in any industrial building or other society, which, at the commencement of the Act, are standing in her name, shall be deemed, until the contrary be shown, to be her separate property; and the fact that such deposit or other interests as aforesaid are standing in the sole name of a married woman shall be sufficient *prima facie* evidence as to her title thereto, so as to empower her to receive or transfer the same, and to receive the dividends or produce thereof without the concurrence of her husband, and to indemnify the Postmaster-General and all other persons connected with the said institutions in respect thereof.

Married woman
entitled to deal
with the in-
terests, and to
receive divi-
dends without
her husband.

Indemnity to
persons paying
married women.

Sections 6 to 10 deal with the investments of married women's property in the public and stocks or funds, and considerably extends the provisions contained in secs. 2-5 of the Married Women's Property Act, 1870.

The present section deals with investments standing in the sole name of a married woman, and enacts that they are to be deemed *prima facie* her separate property, so as to authorise her to deal with them without her husband's concurrence. The presumption that she is beneficially entitled is subject, of course, to be rebutted by showing that the married woman is a trustee, though, under the Act of 1870, it was decided that she could hold only as a beneficiary,

and not as a trustee. (Howard v. Bank of England, L. R. 19 Eq. 295.)

All stock transferable in the books of the Bank of ^{Sec. 7,} England, or of any other bank, and all such deposits, ^{p. 56.} annuities, shares and interests as are mentioned in ^{Stock, &c.,} sec. 6, which, after the commencement of the Act, ^{transferred to a} shall be allotted to, transferred, or made to stand in the ^{married woman} sole name of any married woman, shall be deemed, until ^{shall be her} the contrary be shown, to be her separate property, and ^{separate pro-} her separate estate shall alone be liable in respect of any ^{erty, and her} liability incident thereto, whether or not the same shall ^{separate estate} be so expressed on the document issued, or in any books ^{shall alone be} relating thereto. ^{liable.}

Provided that nothing in the Act shall require or ^{Proviso} authorise any Corporation or Company to admit any ^{restricting the} married woman to be a holder of shares, to which any ^{right to hold} liability may be incident, contrary to the provisions of ^{shares in} any Act of Parliament, charter, or other instrument regu- ^{certain cases.} lating such Corporation or Company.

This section deals with investments which may be placed or transferred into the sole name of any married woman after the 1st January, 1883, and enacts that they are to be declared her separate property unless and until the contrary is shown. For any liabilities incident to such investments, her separate estate is alone to be liable. Even before the Act of 1870 and the present Act a married woman might become a shareholder in her own right, so as to bind her separate estate. (Mrs. Matthewman's case, L. R. 3 Eq. 781.)

It was decided upon the 78th section of the Companies' Act, 1862, that a husband's liability as a contributory in respect of shares held by his wife for her separate use was not limited to the interest acquired through his wife upon his marriage, this liability having peculiar statutory incidents of its own (*re* West of England Bank *ex p.* Hatcher, 12 Ch. D. 284). Henceforward, however, the separate property alone will be liable. Companies will probably avail themselves of the proviso to provide in their Articles for the case of married women. Unless there is a provision to the contrary, such Companies will probably admit married women as a matter of course.

All the provisions before contained as to deposits, ^{Sec. 8,} annuities, stocks, shares, and other interests, which at ^{p. 57.} The before

mentioned provisions as to stock, &c., to apply to investments in joint names of married women and others.

the commencement of the Act shall be standing, or which might thereafter stand in the sole name of a married woman, shall extend and apply, so far as relates to the interest of the married woman, to any of the interests aforesaid, which at the commencement of the Act, or any time afterwards, should be standing in the name of any married woman jointly with any person or persons other than her husband.

The provisions of secs. 6 and 7 are hereby extended to cases where investments stand in or are transferred into the name of a married woman jointly with any other person than her husband. The section is intended to provide against the difficulties which occurred in such cases as that of *Howard v. Bank of England*, L. R. 19 Eq. 295, where it was held that the Bank of England could not be compelled to permit the transfer of stock standing in the name of a married woman and two other persons, into her name, without the concurrence of the husband of the married woman, who had deserted her.

Sec. 9,
p. 57.
Husbands' concurrence not necessary to transfer stock, &c., standing in name of wife alone, or joint with others.

It shall not be necessary for the husband of any married woman, in respect of her interest, to join in the transfer of any such annuity, deposit, stocks, shares, or other interest as aforesaid which is now or shall hereafter be standing in the sole name of any married woman, or in her name jointly with any other person or persons not being her husband.

This section expressly provides what might without it have been safely enough inferred, that in the case of the investments dealt with in the preceding sections the husband's concurrence in a transfer is to be unnecessary.

The marginal note here, as in several other instances in the present Act, is inaccurate; but it is of course no part of the Act. (*Hammersmith Ry. Co. v. Brand*, L. R. 4 H. L. 171; *Attorney-General v. Great Eastern Ry. Co.*, 11 Ch. D. 449, at 460; but see *in re Venour's Settled Estates*, 2 Ch. D. 522, at 525.)

Sec. 10,
p. 58.
Husband entitled to investment made with his money without consent.

If any investment in any such deposits, annuities, stocks, shares or other interest as aforesaid shall have been made by a married woman with her husband's money without his consent, the Court may, upon an application under sec. 17, order such investment and the dividends

thereof to be transferred and paid to the husband; and nothing in the Act shall give validity as against creditors of the husband to any gift by a husband to his wife which after such gift shall continue to be in the order and disposition or reputed ownership of the husband, or to any deposit or otherwise of moneys of the husband made by or in the name of his wife in fraud of his creditors, but any moneys so deposited or invested may be followed as if the Act had not passed.

Creditors of husband may follow property given by him to wife, or invested in her name.

This section (re-enacting the provisions of the Act of 1870) gives the husband a remedy in case of fraudulent investments by a married woman by means of his moneys, and also protects the husband's creditors against fraudulent investments by or in the name of his wife. The onus of proof will lie upon the husband and the husband's creditors respectively to show that the investments are not the wife's separate property. As to the husband's remedy, see further, sec. 17, p. 44. The provision as to gifts extends the principles of the "order and disposition" section of the Bankruptcy Act, 1869 (sec. 15, sub-sec. 5) as extended to the case of gifts by a husband to his wife. The present provision is wider than the Bankruptcy Act, however, in that (1) it extends to non-traders as well as traders, and (2) that it includes all choses in action, and not only trade debts (comp. sec. 24). Such gifts will be good, however, as between the husband and wife.

A married woman may effect a policy upon her own life or the life of her husband for her separate use, and the same and all benefit thereof shall enure accordingly.

Sec. 11, p. 68.
A married woman may effect a policy for her separate use.

A policy of assurance effected by a man on his own life, and expressed to be for the benefit of his wife and children, or any of them, or by a woman on her own life, and expressed to be for the benefit of her husband and children, or any of them, shall create a trust in favour of the objects named, and the moneys payable thereunder shall not, so long as any object of the trust remains unperformed, form part of the estate of the insured, or be subject to his or her debts. Provided, that if it shall be proved that the policy was effected and premiums paid with intent to defraud creditors, they shall be entitled to receive out of the moneys payable thereunder a sum

A policy effected in favour of husband, wife or children, not subject to debts.

Creditors entitled to be paid premiums paid with intent to defraud them.

The insured may appoint a trustee of the money payable under the policy.

In default of appointment policy to vest in insured or legal representatives.

Court may appoint Trustee.

Receipt of trustee, or in default, receipt of legal representative of insured to be a good discharge to insurance office.

equal to the premiums so paid. The insured may, by the policy or by writing, appoint a trustee or trustees of the money payable under the policy, and may appoint new trustees and make provision for their appointment, and for the investment of the money payable under the policy. In default of appointment, the policy, immediately upon its being effected, shall vest in the assured and his and her legal personal representatives in trust for the purposes aforesaid. If there shall be no trustee, or it shall be expedient to appoint a new trustee, a trustee or trustees may be appointed by any Court having jurisdiction under the provisions of the Trustee Act, 1850, or any Acts extending the same. The receipt of a duly appointed trustee, or in default of appointment, or in default of notice to the insurance office, the receipt of the legal personal representative of the insured, shall be a discharge to the office for the sum secured by the policy, or for the value thereof in whole or in part.

By the Act of 1870 power was conferred upon a married woman to effect a policy on the life of herself or her husband for her separate use. By the present section a policy may be effected by a man on his own life for the benefit of his wife or child, one or both or any of them, or by a woman on her own life for the benefit of her husband or children, or both or any of them, and if so expressed, then a trust will be created in favour of the objects named. Trustees may be appointed by this policy or by a separate memorandum, and other necessary provisions may be made; provisions also made for the non-appointment or failure of trustees; and it is provided that the receipt of the trustee, or of the legal personal representative, is to be a discharge to the office. Such a policy shall not form part of the estate of the assured—provided that if the policy was effected with intent to defraud creditors, though it is not easy to see how this can be shown, they will be entitled to receive a sum equal to the premiums paid out of the sum payable under the policy. It appears, therefore, that the creditors will have to wait until the policy becomes payable and is paid. To this extent the present section, which only re-enacts and extends the 10th section of the Act of 1870, so far qualifies the 91st section of the Bankruptcy Act, 1869, providing for the avoidance of voluntary settlements, that a policy of assurance effected by a married man on his own life, and expressed to be for the benefit of his wife or children, will be unaffected by that section. (Comp. *Holt v. Everall*, L. R. 2 Ch. Div. 266.)

In *in re Mellor's Policy Trusts*, 7 Ch. D. 200, decided under the Act of 1870, where a husband, after insuring his life for the benefit of his wife and children, died insolvent, and the income of the amount secured by the policy was inadequate to maintain his family, Malins, V.-C., ordered the fund to be distributed amongst the next-of-kin under the Statute of Distributions, as if he had died intestate, on the ground that the section meant that the policy should be held for the separate use of the wife as long as she was married, but not that on her husband's death she should not be capable of taking part of the capital with the sanction of the Court.

A married woman shall have the same remedies, civil and criminal, against all persons (including her husband, subject to the proviso hereinafter mentioned) for the protection and security of her separate property as if she were a *feme sole*; but, except as aforesaid, no husband or wife shall be entitled to sue the other for a tort. In any proceedings, civil or criminal, under this section, it shall be sufficient to allege such property to be her property, and in any such proceedings a husband or wife may give evidence against each other. Provided, that a wife shall not take criminal proceedings against her husband by virtue of the Act while they are living together with regard to any property claimed by her, nor while they are living apart as to anything done by the husband with regard to the property claimed by the wife, unless such property shall be improperly taken by the husband when about to leave her.

Sec. 12,
p. 59.
A married woman to have the same remedies for protection and security of her separate property as a *feme sole*.

Husband and wife may give evidence against each other. Criminal proceedings not to be taken by wife against husband while they are living together. Except property taken by husband when leaving.

This section must be read together with sec. 16, and the effect of them is to give to the wife as against all persons, including her husband, the same civil and criminal remedies for the protection of her separate property as if she were a *feme sole*; while husband and wife, if living apart, are to have the same criminal remedies against each other as if they were strangers, and they are to be competent witnesses against each other. It is provided, however, that the wife may not take criminal proceedings against the husband for any act done whilst they were living together, with regard to property claimed by the wife, unless the husband has wrongfully taken such property when leaving or deserting his wife. Though the wife is enabled by the present Act to sue her husband in tort as respects her separate property, it does not appear that the husband will have any correlative right to sue her in tort. It appears very doubtful

The insured
may appoint
a trustee of the
money payable
under the
policy.

In default of
appointment,
policy to vest
in insured or
legal repre-
sentatives.
Court may ap-
point Trustee.

Receipt of
Trustee, or in
default, receipt
of legal
representative
of insured to
be a good dis-
charge to in-
surance office.

be increased or diminished by the Act with reference to such debts or liabilities.

before the Act not increased or diminished by the Act.

By the present section, which re-enacts the provisions of the Act of 1874 amending the Act of 1870, the husband is liable for his wife's debts, contracts and wrongs to the extent of all property acquired through his wife, after deducting the amount of any payment made or judgments recovered against him in respect of them.

After the commencement of this Act the husband can, of course, only acquire property "given or through his wife" by gift or settlement, or by her death intestate as to her separate property.

Difficulties may arise as to the rights and priorities of ante-nuptial creditors, and there appears to be nothing in the Act to prevent a husband from preferring one creditor to another.

A husband and wife may be jointly sued in respect of the wife's ante-nuptial liabilities if the plaintiff in the action seeks to establish his claim wholly or in part against both of them, and if in such an action or in one brought against the husband alone, it is not found that the husband is liable in respect of any property of the wife's acquired by him, he shall have his costs, whatever may be the result of the action against his wife if sued with him. If in a joint-action a judgment against the husband to the extent to which he is liable shall be a joint judgment against him personally and against the wife as to her separate property, and as to the residue, if any, of such judgment, the same shall be a separate judgment against the wife as to her separate property only.

Sec. 15, p. 61.

Husband and wife may be sued jointly for wife's ante-nuptial liabilities.

Husband entitle to costs if he has no property acquired through wife.

Effect of judgment in an action against husband and wife jointly.

This section, which re-enacts, with some variation of language, sec. 4 of the Amendment Act of 1874, is intended to provide for cases where the plaintiff, in respect of the wife's ante-nuptial liabilities, exercises his right to sue husband and wife jointly, and determines the nature of the judgment to be recovered, if they are found jointly liable.

The provision that "if it is not found that the husband is liable," he is to have judgment for his costs, appears to limit the discretion of the judge as to awarding costs (Judicature Acts, Order LV., Rule 1).

A wife doing any act with respect to any property of her husband, which if done by him with regard to her

Section 16, p. 62. Wife liable to

criminal proceedings for acts done to husband's property.

property would make him liable under this Act to criminal proceedings, shall in like manner be liable to criminal proceedings by her husband.

At common law, husband and wife are incapable of committing larceny against each other. The Act of 1870, though it gave the wife "remedies both civil and criminal against all persons whomsoever," was not in practice held to enable the wife to prosecute her husband for larceny of her separate earnings.

By the 12th section of the present Act this is remedied, and by the present section correlative rights are given to the husband to proceed criminally against his wife, subject, of course, to the proviso in sec. 12, which must be read with the present section.

Sec. 17,
p. 82.

Questions between husband and wife as to property can upon the application of either or of a bank, &c., be decided in a summary way.

In questions between husband and wife as to the title to or possession of property, either party or any bank or other institution as aforesaid, in whose books any stocks, funds or shares of either party are standing, may apply in a summary way, by summons or otherwise, to any judge of the High Court of Justice in England or Ireland, as the case may be, or, at the option of the applicant, irrespective of value in England, to the County Court judge of the district, or in Ireland to the chairman of the Civil Bill Court of the division in which either party resides, any of whom may make such order or direct such inquiry with reference to the property in dispute and the costs as he shall think fit, subject to such right of appeal as exists with regard to any other matter pending in such Courts respectively. And all proceedings in a County or Civil Bill Court, in which, by reason of the value of the property in dispute, such Court would not have had jurisdiction if the Act or the Married Women's Property Act, 1870, had not passed, may, at the option of the defendant, be removed, as of right, into the High Court of Justice by writ of certiorari or in other prescribed manner, but orders made or acts done prior to removal shall be valid unless otherwise ordered. Provided, that the authorities hereby given jurisdiction may, if either party so require, hear such applications in their private rooms. Provided

Proceedings in County Court where property of certain value may be removed at option to superior Court.

Applications may be heard in judge's private room.

also, that any such bank or other institution as aforesaid shall in the matter of any such application, for the purposes of costs, or otherwise, be treated as a stakeholder only.

Bank, &c., to be treated as a stakeholder only.

This section extends the provisions of sec. 9 of the Act of 1870. Not only may either husband or wife, but the bank or Company, &c., in whose books stocks, &c., may be standing, may apply to any judge of the High Court or County Court judge to determine any question of title or possession. The bank, &c., is to be treated as a stakeholder only, and will accordingly be entitled to costs as between solicitor and client.

A married woman who is an executrix or administratrix alone or jointly with others of the estate of any deceased person, or a trustee alone or jointly with others of any property, may sue or be sued, and may transfer any annuity or deposit or other interest in that character without her husband as if she were a *feme sole*.

Sec. 18,
p. 64.

Married woman an executrix or trustee may sue or be sued, and may transfer stock as if she were a *feme sole*.

Nothing in the Act contained shall affect any settlement or agreement therefor made or to be made before or after marriage respecting the property of any married woman, or interfere with any restriction against anticipation now or hereafter to be attached to the enjoyment of any property by a woman under any settlement or other instrument, but no restriction against anticipation contained in a settlement of a woman's own property to be made by herself shall have any validity against her ante-nuptial debts, and no settlement shall have any greater force against her creditors than a like settlement made by a man would have against his creditors.

Sec. 19,
p. 64.

Ante- and post-nuptial settlements not affected by the Act.

Restraint against anticipation as regards the woman's own property not to be valid against ante-nuptial debts.

The present section saves all settlements made or to be made, including restrictions upon anticipation, but provides that a woman may not by settlement restrain herself from anticipation, so as to protect herself against her ante-nuptial debts. It appears, therefore, that her ante-nuptial creditors may follow her settled property, although the creditors of a husband have no such right to follow property which he may have settled upon his marriage. In *Sanger v. Sanger*, 11 Eq. 470, a case decided (in 1871) upon the 12th section of the Act of 1870, for an ante-nuptial debt, the restraint on anticipation was disregarded, the Court thinking that, as the husband's

liability had been taken away by the Act, it was only reasonable that the liability should fasten on the whole property of the wife.

By the Conveyancing Act, 1881 (s. 39), the Court may bind the interest of a married woman in any property if it appears to be for her benefit and with her consent, notwithstanding she is restrained from anticipation.

Sec. 20,
p. 64.
Married woman
to be liable to
the parish for
the main-
tenance of her
husband.
31 & 32 Vic.
c. 122.

Where in England the husband of a woman having separate property becomes chargeable to the parish, the justices may, upon application of the guardians, issue a summons against the wife, and make and enforce such order against her for the maintenance of her husband as under the 33rd section of the Poor Law Amendment Act, 1868, may be made on a husband for the maintenance of his wife. In like manner, where in Ireland relief is given to a husband, the cost price of such relief is declared to be a loan from the guardians, and is recoverable, as money lent, from the wife as if she were a *feme sole*.

This section, which re-enacts the provisions of sec. 13 of the Act of 1870, renders a wife, with separate property, liable for the maintenance of her husband under the Poor Law Acts. As the husband is not liable to support his wife where he has left her in consequence of her adultery (*Culley v. Charman*, 7 Q. B. D. 89), a question may arise whether the wife will be free from liability under similar circumstances.

Sec. 21,
p. 65.
Married woman
to be liable to
the parish for
the main-
tenance of her
children and
grand-children.
Husband not
relieved from
liability for
maintenance of
wife's children
and grand-
children.

A married woman having separate property shall be subject to all such liability for the maintenance of her children and grandchildren, as the husband is now by law subject to for the maintenance of her children and grandchildren. Provided, that nothing in the Act contained is to relieve the husband from any liability imposed upon him by law to maintain her children and grandchildren.

Under the Act of 1870 an entirely new liability was imposed upon a married woman having separate estate, viz., the liability to support her children. By the present section this liability is extended to the case of her grandchildren, so as to put her, as to her children and grandchildren, in the same position as her husband. There is an important difference, however, viz., that the wife is not liable for the maintenance of her husband's children, although the husband is liable to maintain her children.

The Married Women's Property Act, 1870, and the Amendment Act, 1874, are repealed : Provided, that such repeal is not to affect any act done or right acquired while such Acts were in force, or any right or liability of husband or wife married before the commencement of the Act to sue or be sued under the repealed Acts in respect of any debt or other matter whatever for or in respect of which any such right or liability shall have accrued to or against such husband or wife before the commencement of the Act.

Sec. 22,
p. 66.
Repeal of 33
& 34 Vic. c. 93,
and 37 & 38
Vic. c. 50.
Saving of acts
done or rights
acquired under
repealed Acts.

This section, while repealing the earlier Married Women's Property Acts, saves all acts done or rights acquired under them. Compare the provisoes in secs. 13 and 14.

For the purposes of the Act the legal personal representative of any married woman is, in respect of her separate estate, to have the same rights and liabilities and be subject to the same jurisdiction as she would be if she were living.

Sec. 23,
p. 66.
Legal personal
representative
of married
woman subject
to the same
rights and
liabilities.

By this section the same rights and liabilities attach to the legal personal representatives of a married woman as she would be subject to if she were living in respect of her separate estate. The language of the section presents some difficulty in the case of separate real property, since no mention is made of the heir.

Where the wife dies intestate, the husband's right to administer does not seem to be affected by this Act.

The word "contract" in the Act is to include the acceptance of any trust or of the office of executrix or administratrix, and the provisions of the Act as to liabilities of married women shall extend to liabilities by reason of any breach of trust or devastavit committed by her and in any of the said characters before or after marriage, and the husband shall not be subject to such liabilities unless he has acted or intermeddled in the trust or administration.

Sec. 24,
p. 66.
Interpretation
of "contract."
Liabilities of
married woman
to extend to
breaches of
trust or *devastavit*.
Husband not
liable unless he
has inter-
meddled.
Interpretation
of "property."

The word "property" in the Act includes a thing in action.

The present Act enables a married woman to accept the office of executrix, administratrix or trustee alone or jointly, and throws upon her separate estate all liabilities arising from any breach of

trust or devastavit. The husband is at the same time relieved from such liabilities, unless he has acted or intermeddled. He should be very careful therefore not to sign any document, even *pro forma*, and not to commit himself in any way. Compare sec. 18.

For some of the effects of the provision that the word "property" in this Act includes a thing or chose in action, see the noting on sec. 10. It appears that if a tort be committed against a married woman, the right to sue for damages, which is a chose in action, will accrue to her as her separate property.

Sec. 25,
p. 66.
Commencement
of the Act.

The Act commences on the 1st January, 1883.

Sec. 26,
p. 66.
Extent of Act.

The Act is not to extend to Scotland.

Sec. 27,
p. 66.
Short title.

The Act may be cited as the Married Women's Property Act, 1882.

**MARRIED WOMEN'S PROPERTY
ACT, 1882.**

MARRIED WOMEN'S PROPERTY ACT, 1882.

(45 & 46 Vic. c. 75.)

Arrangement of Sections.

Section

1. Married woman to be capable of holding property and of contracting as a feme sole.
2. Property of a woman married after the Act to be held by her as a feme sole.
3. Loans by wife to husband.
4. Execution of general power.
5. Property acquired after the Act by a woman married before the Act to be held by her as a feme sole.
6. As to stock, &c., to which a married woman is entitled.
7. As to stock, &c., to be transferred, &c., to a married woman.
8. Investments in joint names of married women and others.
9. As to stock, &c., standing in the joint names of a married woman and others.
10. Fraudulent investments with money of husband.
11. Moneys payable under policy of assurance not to form part of estate of the insured.
12. Remedies of married woman for protection and security of separate property.

Section

13. Wife's ante-nuptial debts and liabilities.
14. Husband to be liable for his wife's debts contracted before marriage to a certain extent.
15. Suits for ante-nuptial liabilities.
16. Act of wife liable to criminal proceedings.
17. Questions between husband and wife as to property to be decided in a summary way.
18. Married woman as an executrix or trustee.
19. Saving of existing settlements, and the power to make future settlements.
20. Married woman to be liable to the parish for the maintenance of her husband.
21. Married woman to be liable to the parish for the maintenance of her children.
22. Repeal of 33 & 34 Vic. c. 93 ; 37 & 38 Vic. c. 50.
23. Legal representative of married woman.
24. Interpretation of terms.
25. Commencement of Act.
26. Extent of Act.
27. Short title.

MARRIED WOMEN'S PROPERTY ACT, 1882.

(45 and 46 Vic. c. 75.)

*An Act to consolidate and amend the Acts relating to the
Property of Married Women.* [18th August, 1882.]

WHEREAS it is expedient to consolidate and amend the Act of the thirty-third and thirty-fourth Victoria, chapter ninety-three, intituled "The Married Women's Property Act, 1870," and the Act of the thirty-seventh and thirty-eighth Victoria, chapter fifty, intituled "An Act to amend the Married Women's Property Act, 1870."

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows.

1. (1.) A married woman shall, in accordance with the provisions of this Act, be capable of acquiring, holding, and disposing by will or otherwise, of any real or personal property as her separate property, in the same manner as if she were a feme sole without the intervention of any trustee.

Married woman to be capable of holding property and of contracting as a feme sole.
Sum. p. 29.

(2.) A married woman shall be capable of entering into and rendering herself liable in respect of and to the extent of her separate property on any contract, and of

Sum. p. 30.

suing and being sued, either in contract or in tort, or otherwise, in all respects as if she were a feme sole, and her husband need not be joined with her as plaintiff or defendant, or be made a party to any action or other legal proceeding brought by or taken against her; and any damages or costs recovered by her in any such action or proceeding shall be her separate property; and any damages or costs recovered against her in any such action or proceeding shall be payable out of her separate property, and not otherwise.

Sum. p. 32.

(3.) Every contract entered into by a married woman shall be deemed to be a contract entered into by her with respect to and to bind her separate property, unless the contrary be shown.

Sum. p. 33.

(4.) Every contract entered into by a married woman with respect to and to bind her separate property shall bind not only the separate property which she is possessed of or entitled to at the date of the contract, but also all separate property which she may thereafter acquire.

Sum. p. 33.

(5.) Every married woman carrying on a trade separately from her husband shall, in respect of her separate property, be subject to the bankruptcy laws in the same way as if she were a feme sole.

Property of a woman married after the Act to be held by her as a feme sole.
Sum. p. 34.

2. Every woman who marries after the commencement of this Act shall be entitled to have and to hold as her separate property and to dispose of in manner aforesaid all real and personal property which shall belong to her at the time of marriage, or shall be acquired by or devolve upon her after marriage, including any wages, earnings, money, and property gained or acquired by her in any employment, trade, or occupation, in which she is engaged, or which she carries on separately from her husband, or by the exercise of any literary, artistic, or scientific skill.

Loans by wife to husband.
Sum. p. 34.

3. Any money or other estate of the wife lent or entrusted by her to her husband for the purpose of any

trade or business carried on by him, or otherwise, shall be treated as assets of her husband's estate in case of his bankruptcy, under reservation of the wife's claim to a dividend as a creditor for the amount or value of such money or other estate after, but not before, all claims of the other creditors of the husband for valuable consideration in money or money's worth have been satisfied.

4. The execution of a general power by will by a married woman shall have the effect of making the property appointed liable for her debts and other liabilities in the same manner as her separate estate is made liable under this Act.

Execution of
general power.
Sum. p. 35.

5. Every woman married before the commencement of this Act shall be entitled to have and to hold and to dispose of in manner aforesaid as her separate property all real and personal property, her title to which, whether vested or contingent, and whether in possession, reversion, or remainder, shall accrue after the commencement of this Act, including any wages, earnings, money, and property, so gained or acquired by her as aforesaid.

Property
acquired after
the Act by a
woman married
before the Act
to be held by her
as a feme sole.
Sum. p. 35.

6. All deposits in any post office or other savings bank, or in any other bank, all annuities granted by the Commissioners for the Reduction of the National Debt or by any other person, and all sums forming part of the public stocks or funds, or of any other stocks or funds transferable in the books of the Governor and Company of the Bank of England, or of any other bank, which at the commencement of this Act are standing in the sole name of a married woman, and all shares, stock, debentures, debenture stock, or other interests of or in any corporation, company, or public body, municipal, commercial, or otherwise, or of or in any industrial, provident, friendly, benefit, building, or loan society, which at the commencement of this Act are standing in her name, shall be deemed, unless and until the contrary be shown, to be the separate

As to stock, &c.,
to which a
married woman
is entitled.
Sum. p. 36.

property of such married woman; and the fact that any such deposit, annuity, sum forming part of the public stocks or funds, or of any other stocks or funds transferable in the books of the Governor and Company of the Bank of England or of any other bank, share, stock, debenture, debenture stock, or other interest as aforesaid, is standing in the sole name of a married woman, shall be sufficient *prima facie* evidence that she is beneficially entitled thereto for her separate use, so as to authorise and empower her to receive or transfer the same, and to receive the dividends, interest, and profit thereof, without the concurrence of her husband, and to indemnify the Postmaster-General, the Commissioners for the Reduction of the National Debt, the Governor and Company of the Bank of England, the Governor and Company of the Bank of Ireland, and all directors, managers, and trustees of every such bank, corporation, company, public body, or society as aforesaid, in respect thereof.

As to stock, &c.,
to be transferred, &c., to a
married woman.
Sum. p. 37.

7. All sums forming part of the public stocks or funds, or of any other stocks or funds transferable in the books of the Bank of England or of any other bank, and all such deposits and annuities respectively as are mentioned in the last preceding section, and all shares, stock, debentures, debenture stock, and other interests of or in any such corporation, company, public body, or society as aforesaid, which after the commencement of this Act shall be allotted to or placed, registered, or transferred in or into or made to stand in the sole name of any married woman shall be deemed, unless and until the contrary be shown, to be her separate property, in respect of which so far as any liability may be incident thereto her separate estate shall alone be liable, whether the same shall be so expressed in the document whereby her title to the same is created or certified, or in the books or register wherein her title is entered or recorded, or not.

Provided always, that nothing in this Act shall require

or authorise any corporation or joint stock Company to admit any married woman to be a holder of any shares or stock therein to which any liability may be incident, contrary to the provisions of any Act of Parliament charter, byelaw, articles of association, or deed of settlement regulating such corporation or company.

8. All the provisions hereinbefore contained as to deposits in any post office or other savings bank, or in any other bank, annuities granted by the Commissioners for the Reduction of the National Debt or by any other person, sums forming part of the public stocks or funds, or of any other stocks or funds transferable in the books of the Bank of England or of any other bank, shares, stock, debentures, debenture stock, or other interests of or in any such corporation, company, public body or society as aforesaid respectively, which at the commencement of this Act shall be standing in the sole name of a married woman, or which, after that time, shall be allotted to, or placed, registered, or transferred to or into, or made to stand in, the sole name of a married woman, shall respectively extend and apply, so far as relates to the estate, right, title, or interest of the married woman, to any of the particulars aforesaid which, at the commencement of this Act, or at any time afterwards, shall be standing in, or shall be allotted to, placed, registered, or transferred to or into, or made to stand in, the name of any married woman jointly with any persons or person other than her husband.

Investments in joint names of married women and others.
Sum. p. 37.

9. It shall not be necessary for the husband of any married woman, in respect of her interest, to join in the transfer of any such annuity or deposit as aforesaid, or any sum forming part of the public stocks or funds, or of any other stocks or funds transferable as aforesaid, or any share, stock, debenture, debenture stock, or other benefit, right, claim, or other interest of or in any such

As to stock, &c., standing in the joint names of a married woman and others.
Sum. p. 38.

corporation, company, public body, or society as aforesaid, which is now or shall at any time hereafter be standing in the sole name of any married woman, or in the joint names of such married woman and any other person or persons not being her husband.

Fraudulent
investments
with moneys of
husband.
Sum. p. 38.

10. If any investment in any such deposit or annuity as aforesaid, or in any of the public stocks or funds, or in any other stocks or funds transferable as aforesaid, or in any share, stock, debenture, or debenture stock of any corporation, company, or public body, municipal, commercial, or otherwise, or in any share, debenture, benefit, right, or claim whatsoever in, to, or upon the funds of any industrial, provident, friendly, benefit, building, or loan society, shall have been made by a married woman by means of moneys of her husband, without his consent, the Court may, upon an application under section seventeen of this Act, order such investment, and the dividends thereof, or any part thereof, to be transferred and paid respectively to the husband; and nothing in this Act contained shall give validity as against creditors of the husband to any gift, by a husband to his wife, of any property, which, after such gift, shall continue to be in the order and disposition or reputed ownership of the husband, or to any deposit or other investment of moneys of the husband made by or in the name of his wife in fraud of his creditors; but any moneys so deposited or invested may be followed as if this Act had not passed.

Moneys
payable under
policy of
assurance not
to form part of
estate of the
insured.
Sum. p. 39.

11. A married woman may by virtue of the power of making contracts hereinbefore contained effect a policy upon her own life or the life of her husband for her separate use; and the same and all benefit thereof shall enure accordingly.

A policy of assurance effected by any man on his own life, and expressed to be for the benefit of his wife, or of his children, or of his wife and children, or any of them, or by any woman on her own life, and expressed to be for

the benefit of her husband, or of her children, or of her husband and children, or any of them, shall create a trust in favour of the objects therein named, and the moneys payable under any such policy shall not, so long as any object of the trust remains unperformed, form part of the estate of the insured, or be subject to his or her debts: Provided, that if it shall be proved that the policy was effected and the premiums paid with intent to defraud the creditors of the insured, they shall be entitled to receive, out of the moneys payable under the policy, a sum equal to the premiums so paid. The insured may by the policy, or by any memorandum under his or her hand appoint a trustee or trustees of the moneys payable under the policy, and from time to time appoint a new trustee or new trustees thereof, and may make provision for the appointment of a new trustee or new trustees thereof, and for the investment of the moneys payable under any such policy. In default of any such appointment of a trustee, such policy, immediately on its being effected, shall vest in the insured and his or her legal personal representatives, in trust for the purposes aforesaid. If, at the time of the death of the insured, or at any time afterwards, there shall be no trustee, or it shall be expedient to appoint a new trustee or new trustees, a trustee or trustees or a new trustee or new trustees may be appointed by any court having jurisdiction under the provisions of the Trustee Act, 1850,^{13 & 14 Vic. c. 60.} or the Acts amending and extending the same. The receipt of a trustee or trustees duly appointed, or, in default of any such appointment, or in default of notice to the insurance office, the receipt of the legal personal representative of the insured shall be a discharge to the office for the sum secured by the policy, or for the value thereof, in whole or in part.

12. Every woman, whether married before or after this Act, shall have in her own name against all persons ^{Remedies of married woman for protection}

and security
of separate
property.
Sum. p. 41.

whomsoever, including her husband, the same civil remedies, and also (subject, as regards her husband, to the proviso hereinafter contained) the same remedies and redress by way of criminal proceedings, for the protection and security of her own separate property, as if such property belonged to her as a feme sole, but, except as aforesaid, no husband or wife shall be entitled to sue the other for a tort. In any indictment or other proceeding under this section it shall be sufficient to allege such property to be her property; and in any proceeding under this section a husband or wife shall be competent to give evidence against each other, any statute or rule of law to the contrary notwithstanding: Provided always, that no criminal proceeding shall be taken by any wife against her husband by virtue of this Act while they are living together, as to or concerning any property claimed by her, nor while they are living apart, as to or concerning any act done by the husband while they were living together, concerning property claimed by the wife, unless such property shall have been wrongfully taken by the husband when leaving or deserting, or about to leave or desert his wife.

Wife's ante-
nuptial debts
and liabilities.
Sum. p. 42.

13. A woman after her marriage shall continue to be liable in respect and to the extent of her separate property for all debts contracted, and all contracts entered into or wrongs committed by her before her marriage, including any sums for which she may be liable as a contributory, either before or after she has been placed on the list of contributories, under and by virtue of the Acts relating to joint stock companies; and she may be sued for any such debt and for any liability in damages or otherwise under any such contract, or in respect of any such wrong; and all sums recovered against her in respect thereof, or for any costs relating thereto, shall be payable out of her separate property; and, as between her and her husband, unless there be any contract between them to

the contrary, her separate property shall be deemed to be primarily liable for all such debts, contracts, or wrongs, and for all damages or costs recovered in respect thereof : Provided always, that nothing in this Act shall operate to increase or diminish the liability of any woman married before the commencement of this Act for any such debt, contract, or wrong, as aforesaid, except as to any separate property to which she may become entitled by virtue of this Act, and to which she would not have been entitled for her separate use under the Acts hereby repealed or otherwise, if this Act had not passed.

14. A husband shall be liable for the debts of his wife contracted, and for all contracts entered into and wrongs committed by her, before marriage, including any liabilities to which she may be so subject under the Acts relating to joint stock companies as aforesaid, to the extent of all property whatsoever belonging to his wife which he shall have acquired or become entitled to from or through his wife, after deducting therefrom any payments made by him, and any sums for which judgment may have been bonâ fide recovered against him in any proceeding at law, in respect of any such debts, contracts, or wrongs for or in respect of which his wife was liable before her marriage as aforesaid ; but he shall not be liable for the same any further or otherwise ; and any court in which a husband shall be sued for any such debt shall have power to direct any inquiry or proceedings which it may think proper for the purpose of ascertaining the nature, amount, or value of such property : Provided always, that nothing in this Act contained shall operate to increase or diminish the liability of any husband married before the commencement of this Act for or in respect of any such debt or other liability of his wife as aforesaid.

Husband to be liable for his wife's debts contracted before marriage to a certain extent.
Sum. p. 42.

15. A husband and wife may be jointly sued in respect of any such debt or other liability (whether by contract

Suits for ante-nuptial liabilities.
Sum. p. 43.

or for any wrong) contracted or incurred by the wife before marriage as aforesaid, if the plaintiff in the action shall seek to establish his claim, either wholly or in part, against both of them; and if in any such action, or in any action brought in respect of any such debt or liability against the husband alone, it is not found that the husband is liable in respect of any property of the wife so acquired by him or to which he shall have become so entitled as aforesaid, he shall have judgment for his costs of defence, whatever may be the result of the action against the wife if jointly sued with him; and in any such action against husband and wife jointly, if it appears that the husband is liable for the debt, or damages recovered, or any part thereof, the judgment to the extent of the amount for which the husband is liable shall be a joint judgment against the husband personally and against the wife as to her separate property; and as to the residue, if any, of such debt and damages, the judgment shall be a separate judgment against the wife as to her separate property only.

Act of wife
liable to
criminal
proceedings.
Sum. p. 43.

16. A wife doing any act with respect to any property of her husband, which, if done by the husband with respect to property of the wife, would make the husband liable to criminal proceedings by the wife under this Act, shall in like manner be liable to criminal proceedings by her husband.

Questions
between
husband and
wife as to
property to be
decided in a
summary way.
Sum. p. 44.

17. In any question between husband and wife as to the title to or possession of property, either party, or any such bank, corporation, company, public body, or society as aforesaid in whose books any stocks, funds, or shares of either party are standing, may apply by summons or otherwise in a summary way to any judge of the High Court of Justice in England or in Ireland, according as such property is in England or Ireland, or (at the option of the applicant irrespectively of the value of the

property in dispute) in England to the judge of the county court of the district, or in Ireland to the chairman of the civil bill court of the division in which either party resides, and the judge of the High Court of Justice or of the county court, or the chairman of the civil bill court (as the case may be) may make such order with respect to the property in dispute, and as to the costs of and consequent on the application as he thinks fit, or may direct such application to stand over from time to time, and any inquiry touching the matters in question to be made in such manner as he shall think fit: Provided always, that any order of a judge of the High Court of Justice to be made under the provisions of this section shall be subject to appeal in the same way as an order made by the same judge in a suit pending or on an equitable plaint in the said court would be; and any order of a county or civil bill court under the provisions of this section shall be subject to appeal in the same way as any other order made by the same court would be, and all proceedings in a county court or civil bill court under this section in which, by reason of the value of the property in dispute, such court would not have had jurisdiction if this Act or the Married Women's Property Act, 1870, had not passed, may, at the option of the defendant or respondent to such proceedings, be removed as of right into the High Court of Justice in England or Ireland (as the case may be), by writ of certiorari or otherwise as may be prescribed by any rule of such High Court; but any order made or act done in the course of such proceedings prior to such removal shall be valid, unless order shall be made to the contrary by such High Court: Provided also, that the judge of the High Court of Justice or of the county court, or the chairman of the civil bill court, if either party so require, may hear any such application in his private room: Provided also, that any such bank, corporation,

company, public body, or society as aforesaid, shall, in the matter of any such application for the purposes of costs or otherwise, be treated as a stakeholder only.

Married woman
as an executrix
or trustee.
Sum. p. 46.

18. A married woman who is an executrix or administratrix alone or jointly with any other person or persons of the estate of any deceased person, or a trustee alone or jointly as aforesaid of property subject to any trust, may sue or be sued, and may transfer, or join in transferring any such annuity or deposit as aforesaid, or any sum forming part of the public stocks or funds, or of any other stocks or funds transferable as aforesaid, or any share, stock, debenture, debenture stock, or other benefit, right, claim, or other interest of or in any such corporation, company, public body, or society in that character, without her husband, as if she were a feme sole.

Saving of exist-
ing settlements,
and the power
to make future
settlements.
Sum. p. 46.

19. Nothing in this Act contained shall interfere with or affect any settlement or agreement for a settlement made or to be made, whether before or after marriage, respecting the property of any married woman, or shall interfere with or render inoperative any restriction against anticipation at present attached or to be hereafter attached to the enjoyment of any property or income by a woman under any settlement, agreement for a settlement, will, or other instrument; but no restriction against anticipation contained in any settlement or agreement for a settlement of a woman's own property to be made or entered into by herself shall have any validity against debts contracted by her before marriage, and no settlement or agreement for a settlement shall have any greater force or validity against creditors of such woman than a like settlement or agreement for a settlement made or entered into by a man would have against his creditors.

Married woman
to be liable to
the parish for
the maintenance
of her husband.
Sum. p. 46.

20. Where in England the husband of any woman having separate property becomes chargeable to any union or parish, the justices having jurisdiction in such union or

parish may, in petty sessions assembled, upon application of the guardians of the poor, issue a summons against the wife and make and enforce such order against her for the maintenance of her husband out of such separate property as by the thirty-third section of the Poor Law Amendment, 1868, they may now make and enforce against a husband for the maintenance of his wife if she becomes chargeable to any union or parish. Where in Ireland relief is given under the provisions of the Acts relating to the relief of the destitute poor to the husband of any woman having separate property, the cost price of such relief is hereby declared to be a loan from the guardians of the union in which the same shall be given, and shall be recoverable from such woman as if she were a feme sole by the same actions and proceedings as money lent.

31 & 32 Vic.
c. 122.

21. A married woman having separate property shall be subject to all such liability for the maintenance of her children and grandchildren as the husband is now by law subject to for the maintenance of her children and grandchildren: Provided always that nothing in this Act shall relieve her husband from any liability imposed upon him by law to maintain her children or grandchildren.

Married woman
to be liable to
the parish for
the maintenance
of her children.
Sum. p. 46.

22. The Married Women's Property Act, 1870, and the Married Women's Property Act (1870) Amendment Act, 1874, are hereby repealed: Provided that such repeal shall not affect any act done or right acquired while either of such Acts was in force, or any right or liability of any husband or wife, married before the commencement of this Act, to sue or be sued under the provisions of the said repealed Acts or either of them, for or in respect of any debt, contract, wrong, or other matter or thing whatsoever, for or in respect of which any such right or liability shall have accrued to or against such husband or wife before the commencement of this Act.

Repeal of
33 & 34 Vic. c. 83.
37 & 38 Vic. c. 50.
Sum. p. 47.

Legal repre-
sentative of
married
woman.
Sum. p. 47.

23. For the purposes of this Act the legal personal representative of any married woman shall in respect of her separate estate have the same rights and liabilities and be subject to the same jurisdiction as she would be if she were living.

Interpretation
of terms.
Sum. p. 47.

24. The word "contract" in this Act shall include the acceptance of any trust, or of the office of executrix or administratrix, and the provisions of this Act as to liabilities of married women shall extend to all liabilities by reason of any breach of trust or devastavit committed by any married woman being a trustee or executrix or administratrix either before or after her marriage, and her husband shall not be subject to such liabilities unless he has acted or intermeddled in the trust or administration. The word "property" in this Act includes a thing in action.

Commencement
of Act.
Sum. p. 48.

25. The date of the commencement of this Act shall be the first of January One thousand eight hundred and eighty-three.

Extent of Act.
Sum. p. 48.
Short title.
Sum. p. 48.

26. This Act shall not extend to Scotland.

27. This Act may be cited as the Married Women's Property Act, 1882.

JUDGMENTS AS TO SEPARATE ESTATE.

Judgment in McQueen v. Turner and Wife Q. B. D. (Field and Ford North, J.J.), 30 W. R. 81.

This Court doth declare that any separate estate of the defendant Mary Ann Turner, not subject to any restraint against anticipation, to which the defendant Mary Ann Turner at the respective dates of her entering into the several engagements in the Statement of Claim respectively mentioned was, and to which at this present date the defendant Mary Ann Turner still is entitled, is chargeable with payment to the plaintiff of the several sums now due to the plaintiff in respect of such engagements respectively, and with costs of this action. This Court doth direct that an inquiry be had before one of the Masters, what sums are now due to the plaintiff in respect of such engagements respectively, and whether the defendant Mary Ann Turner, at the respective dates of entering into such engagements respectively, had and still has any and what separate estate, and of what it consists, and from what it has arisen, and in whom the same is vested, and whether the same is charged or liable to the payment of any and what debts or charges.

NOTE.—It must be observed that this judgment was framed so as to follow the decision in *Pike v. Fitzgibbon*: L. R. 17 Ch. D. 454, which, as we have pointed out, is reversed by sec. 1 (4) of the present Act. Now after-acquired separate property in also to be bound.

Order in Gallagher v. Nugent, 8 L. R. Ir. 353 (*Ex. Div.*)

The Court doth declare that the separate property of the said Dame Maria Nugent, now vested in her or in any other person or persons in trust for her, is chargeable with payment of the amount due on foot of the joint and several promissory note of the defendant's, dated 22nd March, 1880, together with the costs of this suit, and doth direct that the said separate estate shall be, and the same is hereby charged therewith accordingly. And the Court doth further order that it be referred to the master of this division to ascertain the amount due to the plaintiff on foot of the said promissory note, and to inquire whether the said defendant Dame Maria Nugent is now entitled to any separate estate, and if so of what the said separate estate consists, and in whom the same is vested; and further consideration and order are hereby reserved until the making of such inquiry and the master's report thereon.

See further, in Seton, Decrees, etc., pp. 687-689, 1671; Daniell's Ch. Pr., 185-193.

PRECEDENTS.

PRECEDENT No. 1.

MARRIAGE SETTLEMENT.

(This Form is given in the Fourth Schedule to the Conveyancing and Law of Property Act, 1881.)

This Indenture made the day of 188
Between *John M.* of of the first part *Jane S.* of
of the second part and *X.* of and *Y.* of
of the third part Witnesseth that in considera-
tion of the intended marriage between *John M.* and *Jane S.*
John M. as settlor hereby conveys to *X.* and *Y.* All that
To hold to *X.* and *Y.* in fee simple to the use of
John M. in fee simple until the marriage and after the
marriage to the use of *John M.* during his life without
impeachment of waste with remainder after his death to
the use that *Jane S.* if she survives him may receive during
the rest of her life a yearly jointure rentcharge of £
to commence from his death and to be paid by equal
half-yearly payments the first thereof to be made at the
end of six calendar months from his death if she is then
living or if not a proportional part to be paid at her death
and subject to the before-mentioned rentcharge to the use
of *X.* and *Y.* for a term of 500 years without impeachment
of waste on the trusts hereinafter declared and subject
thereto to the use of the first and other sons of *John M.*
and *Jane S.* successively according to seniority in tail male

with remainder [*insert here, if thought desirable, to the use of the same first and other sons successively according to seniority in tail with remainder*] to the use of all the daughters of *John M.* and *Jane S.* in equal shares as tenants in common in tail with cross remainders between them in tail with remainder to the use of *John M.* in fee simple [*Insert trusts of term of 500 years for raising portions; also, if required, power to charge jointure and portions on a future marriage; also powers of sale, exchange, and partition, and other powers and provisions, if and as desired.*]

In witness, &c.

PRECEDENT No. 2.

MARRIAGE SETTLEMENT.

Settlement by intended wife of a sum of stock. Investment clause. Income to be paid to wife and husband successively for life, and then to issue as wife shall appoint in default for issue equally. Hotchpot clause. Clause as to appointing new trustees.

articles.

This Indenture made the _____ day of

.188 Between *A. B.* of

(hereinafter called the husband of the first part *C. D.* of

(hereinafter called the wife) of the

second part and *E. F.* of _____ and *G. H.* of

_____ hereinafter called the trustees of the

third part Whereas a marriage is intended shortly to be solemnized between the husband and wife and upon the treaty therefore it was agreed that the wife should settle the sum of £ _____ New Three per cent. Bank Annuities

upon the trusts and in manner hereinafter expressed and she has accordingly transferred the said stock into the names

Recital of
intended
marriage.

of the said trustees Now this indenture witnesseth that in consideration of the said intended marriage it is hereby agreed and declared that the trustees shall stand possessed of the said sum of £ New Three per cent. Bank Annuities in trust for the wife until the said intended marriage and after the solemnization of the said intended marriage either to allow the said railway shares to remain unaltered in their present state of investment or with the consent of the husband and wife during their joint lives and of the survivor of them during his and her life and after the death of such survivor at the discretion of the trustees to sell and convert into money all or any part of the said shares and invest the moneys thence arising in the names of the trustees in any of the Government stocks or funds of the United Kingdom or of the United States of America or in any stocks or funds guaranteed by either of the said Governments or in any stocks or bonds issued by any municipality in England or by the Metropolitan Board of Works or in debentures or first mortgage bonds of any English or American railway company paying a dividend out of traffic earnings upon its ordinary shares or stock or upon mortgage of any landed property in England Scotland or Wales provided the same is either freehold or copyhold and that the sum advanced thereon does not exceed three-fifths of the value thereof exclusive of minerals but always so as to yield a regular yearly income and may from time to time with such consent and at such discretion as aforesaid vary such investments for others of any kind hereby authorised and shall hold the same (hereinafter called the trust funds) upon trust to pay the income as received during the joint lives of the husband and wife to the wife for her separate use but without power of anticipation and after her death then upon trust for the husband for life and after his death in trust for all or any of such one or more of the issue of the said intended marriage as the

Witnessing
part.

Trust until
marriage.

After marriage
to retain present
investment or
vary same.

Investment
clause.

To pay income
to wife for
separate use;

Then to hus-
band for life ;

Then amongst
issue as wife
shall appoint.

Hotchpot
clause.

Advancement
clause.

In default of
issue then a
wife shall
appoint.

In default of
appointment
amongst the
wife's next-of-
kin.

Power to
appoint new
trustees.

wife shall by deed or will appoint and in default of such appointment and so far as any such appointment shall not extend in trust for all or any such one or more of the children of the said marriage as shall attain the age of 21 years in equal shares Provided always that no child who or whose issue shall take any part of the trust funds under any such appointment as aforesaid shall be entitled to any share of the unappropriated part of the trust funds without bringing the share appropriated to him or her or his or her issue into hotchpot Provided also that the trustees may at any time or times with the consent in writing of the wife and after her death in their discretion raise any part or parts not exceeding in the whole two-thirds of the then expectant presumptive or vested share of any child or issue under the trusts hereinafter declared and apply the same for his or her advancement or benefit And it is hereby declared that if there shall be no child of the said marriage that shall attain the age of 21 years then subject to the trusts hereinbefore declared the trustees shall hold the trust funds and the income thereof in trust for such persons and for such purposes as the wife shall by deed or will appoint and in default of such appointment and so far as any such appointment shall not extend in trust for such person or persons as under the statutes for the distribution of the effects of intestates would have become entitled thereto at the decease of the wife had she died possessed thereof and without having been married in the shares in which they would have been entitled under the said statutes And it is hereby further agreed that the power of appointing a new trustee shall be exercisable by the wife during her life and that upon every appointment of trustees the number of trustees may be increased or lessened but not to be less than two.

In witness &c.

PRECEDENT No. 3.

MARRIAGE SETTLEMENT.

*Settlement of property by third person on a wife for life,
then on husband for life with remainder to children,
and by the husband, of present furniture, with covenant
to settle after-acquired furniture.*

This Indenture made the day of 188 Parties.

Between *A. B.* of (hereinafter called the husband)
of the first part *C. D.* of (hereinafter called the
wife) of the second part *E. F.* of (hereinafter
called the settlor) of the third part and *G. H.* and *I. J.*
of (hereinafter called the trustees) of the fourth part.

WHEREAS a marriage is intended to be solemnised Recital
of intended
marriage.
between the husband and wife and whereas it has been
agreed by all parties hereto upon the treaty for the mar-
riage that the settlor shall transfer to the trustees the
shares hereinafter more particularly described to be held
by them upon the trusts hereinafter described and further
that the husband shall assign to the trustees the articles
of plate furniture and effects mentioned in the schedule
hereto (including therein all wedding presents that the
husband and wife may receive) and shall covenant in the
manner hereinafter appearing NOW THIS INDEN- Witnessing
part.
TURE witnesseth that in pursuance of the said agreement
and in consideration of the said intended marriage the
settlor as beneficial owner doth hereby transfer and
convey to the trustees all those shares in the
numbered and respectively now standing and
all dividends payable and to be payable on the same and
all rights arising thereout Together with power for
the trustees to sue and give receipts and in respect to the
same To hold the same in trust for the settlor until the Trust until
marriage.
After marriage
to retain present
investment or
vary same.
said intended marriage and after the solemnization of the
said intended marriage either to allow the said railway

Investment
clause.

To pay income
to wife for her
separate use ;

Then to hus-
band for life ;

Then amongst
issue as wife
shall appoint.

Hotchpot
clause.

shares to remain unaltered in their present state of investment or with the consent of the husband and wife during their joint lives and of the survivor of them during his and her life and after the death of such survivor at the discretion of the trustees to sell and convert into money all or any part of the said shares and invest the moneys thence arising in the names of the trustees in any of the Government stocks or funds of the United Kingdom or of the United States of America or in any stocks or funds guaranteed by either of the said Governments or in any stocks or bonds issued by any municipality in England or by the Metropolitan Board of Works or in debentures or first mortgage bonds of any English or American railway company paying a dividend out of traffic earnings upon its ordinary shares or stock or upon mortgage of any landed property in England Scotland or Wales provided the same is either freehold or copyhold and that the sum advanced thereon does not exceed three-fifths of the value thereof exclusive of minerals but always so as to yield a regular yearly income and may from time to time with such consent and at such discretion as aforesaid vary such investments for others of any kind hereby authorised and shall hold the same (hereinafter called the trust funds) upon trust to pay the income as received during the joint lives of the husband and wife to the wife for her separate use but without power of anticipation and after her death then upon trust for the husband for life and after his death in trust for all or any of such one or more of the issue of the said intended marriage as the wife shall by deed or will appoint and in default of such appointment and so far as any such appointment shall not extend in trust for all or any such one or more of the children of the said marriage as shall attain the age of 21 years in equal shares Provided always that no child who or whose issue shall take any part of the trust funds under any such appointment as aforesaid shall be entitled

to any share of the unappropriated part of the trust funds without bringing the share appropriated to him or her or his or her issue into hotchpot Provided also that the trustees may at any time or times with the consent in writing of the wife and after her death in their discretion raise any part or parts not exceeding in the whole two-thirds of the then expectant presumptive or vested share of any child or issue under the trusts hereinbefore declared and apply the same for his or her advancement or benefit And it is hereby declared that if there shall be no child of the said marriage that shall attain the age of 21 years then subject to the trusts hereinbefore declared the trustees shall hold the trust funds and the income thereof in trust for such persons and for such purposes as the wife shall by deed or will appoint and in default of such appointment and so far as any such appointment shall not extend in trust for such person or persons as under the statutes or the distribution of the effects of intestates would have become entitled thereto at the decease of the wife had she died possessed thereof and without having been married in the shares in which they would have been entitled under the said statutes AND THIS INDENTURE ALSO WITNESSETH that in further pursuance of the said agreement and for the consideration aforesaid the husband as beneficial owner doth hereby assign and convey unto the trustees the plate furniture and effects mentioned in the schedule hereto to be holden by them upon trust to permit the same to remain in the possession and to be enjoyed by the husband and the wife during their joint lives and after the death of either of them in trust for the survivor absolutely And the husband doth hereby covenant with the trustees that he will at all times hereafter on their request assign and convey to the trustees all furniture and other articles for household use hereafter at any time during the marriage acquired by him to be held

Advancement clause.

In default of issue then as wife shall appoint.

In default of appointment, amongst the wife's next-of-kin.

Assignment by husband of furniture.

For husband and wife for life, and for the survivor absolutely.

Covenant by husband to settle after-acquired furniture.

To insure
furniture.

Power to
appoint new
trustees.

by the trustees upon the same trusts as are hereinbefore declared in respect of the furniture mentioned in the schedule hereto And also that he will insure all the above-mentioned furniture chattels and effects from fire in the full value thereof and will hand over to the trustees the policy of such insurance and the receipts for all the premiums from time to time payable upon the same seven clear days at the least before the expiration of the days of grace and will apply all moneys receivable under any such insurance as aforesaid in the restoration of the above-mentioned furniture chattels and effects And it is hereby further agreed that the power of appointing a new trustee shall be exerciseable by the wife during her life and that upon every appointment of trustees the number of trustees may be increased or lessened but not to be less than two In witness, &c.

THE SCHEDULE.

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APPENDIX.

FINES AND RECOVERIES ABOLITION ACT.

3 & 4 Will. IV. c. 74.

An Act for the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance. [28th August, 1833.]

77. And be it further enacted, that after the thirty-first day of December one thousand eight hundred and thirty-three it shall be lawful for every married woman, in every case except that of being tenant in tail, for which provision is already made by this Act, by deed to dispose of lands of any tenure, and money subject to be invested in the purchase of lands, and also to dispose of, release, surrender, or extinguish any estate which she alone, or she and her husband in her right, may have in any lands of any tenure, or in any such money as aforesaid, and also to release or extinguish any power which may be vested in or limited or reserved to her in regard to any lands of any tenure, or any such money as aforesaid, or in regard to any estate in any lands of any tenure or in any such money as aforesaid, as fully and effectually as she could do if she were a feme sole; save and except that no such disposition, release, surrender, or extinguishment shall be valid and effectual, unless the husband concur in the deed by which the same shall be effected, nor unless the deed be acknowledged by her as hereinafter directed: Provided always, that this Act shall not extend to lands held by copy of court roll of or to which a married woman, or she and her husband in her right may be seised or entitled for an estate at law, in any case in which any of the objects to be effected by this clause could before the passing of this Act have been effected by her, in concurrence with her husband, by surrender into the hands of the lord of the manor of which the lands may be parcel.

A married woman, with her husband's concurrence, may dispose of lands, and money subject to be invested in the purchase of lands, and any estate therein; and may release and extinguish powers, as a feme sole.

This Act shall not extend to copyholds of married women in certain cases.

78. Provided always, and be it further enacted, that the powers of disposition given to a married woman by this Act shall not interfere with any power which, independently of this Act, may be vested in or limited or reserved to her, so as to prevent her from

The powers of disposition given to a married woman by this Act not

to interfere
with any other
powers.

exercising such power in any case, except so far as by any disposition made by her under this Act she may be prevented from so doing in consequence of such power having been suspended or extinguished by such disposition.

Every deed
by a married
woman under
this Act, not
executed by
her as pro-
tector, to be
acknowledged
by her before
a judge, &c.

79. And be it further enacted, that every deed to be executed by a married woman for any of the purposes of this Act, except such as may be executed by her in the character of protector for the sole purpose of giving her consent to the disposition of a tenant in tail, shall, upon her executing the same, or afterwards, be produced and acknowledged by her as her act and deed before a judge of one of the superior courts at Westminster, or a master in Chancery, or before two of the perpetual commissioners, or two special commissioners, to be respectively appointed as hereinafter provided.

The judge, &c.,
before receiving
such acknow-
ledgment, to
examine her
apart from her
husband.

80. And be it further enacted, that such judge, master in Chancery, or commissioners as aforesaid, before he or they shall receive the acknowledgment by any married woman of any deed by which any disposition, release, surrender, or extinguishment shall be made by her under this Act, shall examine her, apart from her husband, touching her knowledge of such deed, and shall ascertain whether she freely and voluntarily consents to such deed, and, unless she freely and voluntarily consents to such deed, shall not permit her to acknowledge the same; and in such case such deed shall, so far as relates to the execution thereof by such married woman, be void.

Appointment,
&c., of per-
petual com-
missioners for
taking
acknowledg-
ments for each
county or
place; and
making out
and keeping
of lists of the
commissioners
and delivery of
copies thereof.

81. And be it further enacted, that for the purpose of providing convenient means of taking acknowledgments by married women of the deeds to be executed by them as aforesaid, the lord chief justice of the Court of Common Pleas at Westminster shall from time to time appoint such proper persons as he shall think fit, for every county, riding, division, soke, or place for which there may be a clerk of the peace, to be perpetual commissioners for taking such acknowledgments, and such commissioners shall be removable by and at the pleasure of the said lord chief justice; and lists of the names of such commissioners for the time being, with the names of their places of residence, and the counties, ridings, divisions, sokes, or places for which they shall be respectively appointed to act, shall from time to time be made out and be kept by the officer of the Court of Common Pleas at Westminster with whom the certificates of the acknowledgments by married women are to be lodged as hereinafter mentioned; and such officer shall from time to time transmit, without fee or reward, to the clerk of the peace for each county, riding, division, soke, or place, or his deputy, a copy of the list to be so from time to time made out for that county, riding, division, soke, or place, and such officer shall deliver a copy, signed by him, of the list for the time being for any county, riding, division, soke, or place, to any person applying for the same; and the clerk

of the peace for each county, riding, division, soke, or place, or his deputy, shall deliver a copy, signed by him, of the list last transmitted to him as aforesaid, to any person applying for the same.

82. Provided always, and be it further enacted, that any person appointed commissioner for any particular county, riding, division, soke, or place, shall be competent to take the acknowledgment of any married woman wheresoever she may reside, and wheresoever the lands or money in respect of which the acknowledgment is to be taken may be.

Power of perpetual commissioners not confined to any particular place.

83. And be it further enacted, that in those cases where, by reason of residence beyond seas, or ill-health, or any other sufficient cause, any married woman shall be prevented from making the acknowledgment required by this Act before a judge or a master in Chancery, or any of the perpetual commissioners to be appointed as aforesaid, it shall be lawful for the Court of Common Pleas at Westminster, or any judge of that Court, to issue a commission specially appointing any persons therein named to be commissioners to take the acknowledgment by any married woman to be therein named of any such deed as aforesaid: Provided always, that every such commission shall be made returnable within such time, to be therein expressed, as the said Court or judge shall think fit.

If, from being beyond seas, &c., a married woman be prevented from making the acknowledgment before a judge, &c., special commissioners to be appointed.

84. And be it further enacted, that when a married woman shall acknowledge any such deed as aforesaid, the judge, master in Chancery, or commissioners taking such acknowledgment shall sign a memorandum, to be endorsed on or written at the foot or in the margin of such deed; which memorandum, subject to any alteration which may from time to time be directed by the Court of Common Pleas, shall be to the following effect; videlicet,

When a married woman shall acknowledge a deed, the person taking the acknowledgment shall sign a memorandum thereon to the effect here mentioned.

This deed, marked [here add some letter or other mark, for the purpose of identification,] was this day produced before me [or us] and acknowledged by therein named to be her act and deed; previous to which acknowledgment the said was examined by me [or us], separately and apart from her husband, touching her knowledge of the contents of the said deed and her consent thereto, and declared the same to be freely and voluntarily executed by her.

89. And be it further enacted, that the lord chief justice of the Court of Common Pleas at Westminster shall from time to time appoint the person who shall be the officer with whom such certificates as aforesaid shall for the time being be lodged, and may remove him at pleasure; and the Court of Common Pleas at Westminster shall also from time to time make such orders and regulations as the court shall think fit touching the mode of examination to be pursued by the commissioners to be appointed under this Act, and touching the particular matters to be mentioned in such memorandums and

Chief justice of Common Pleas to appoint the officer with whom the certificates shall be lodged; and the Court to make orders touching the examination, memorandums, certificates, affidavits, &c.

certificates as aforesaid, and the affidavits verifying the certificates, and the time within which any of the aforesaid proceedings shall take place, and touching the amount of the fees or charges to be paid for the copies to be delivered by the clerks of the peace or their deputies or by the officer of the said court, as hereinbefore directed and also of the fees or charges to be paid for taking acknowledgments of deeds and for examining married women, and for the proceedings, matters, and things required by this Act to be had, done and executed for completing and giving effect to such acknowledgments and examinations.

A married woman to be separately examined on the surrender of an equitable estate in copyholds as if such estate were legal.

90. And be it further enacted, that in every case in which a husband and wife shall, either in or out of Court, surrender into the hands of the lord of a manor any lands held by copy of Court roll, parcel of the manor, and in which she alone, or she and her husband in her right, may have an equitable estate, the wife shall, upon such surrender being made, be separately examined by the person taking the surrender in the same manner as she would have been if the estate to which she alone, or she and her husband in her right, may be entitled in such lands, were an estate at law instead of a mere estate in equity; and every such surrender, when such examination shall be taken, shall be binding on the married woman and all persons claiming under her; and all surrenders heretofore made of lands similarly circumstanced, where the wife shall have been separately examined by the person taking the surrender, are hereby declared to be good and valid.

Extent of Act.

92. And be it further enacted, that this Act shall not extend to Ireland, except where the same is expressly mentioned.

COUNTY COURT ACTS AMENDMENT ACT, 1856.

19 & 20 Vic. c. 108.

An Act to amend the Acts relating to the County Courts.

[29th July, 1856.]

Acknowledgments by married women under 3 & 4 Will. 4 c. 74, to be received by judge of county court.

73. Any acknowledgment to be made by any married woman of any deed under the Act of the third and fourth years of the reign of His late Majesty King William the Fourth, chapter seventy-four may be received by a judge of a county court in the same manner as such acknowledgment may be received by a judge of a Superior Court.

MARRIED WOMEN'S REVERSIONARY INTERESTS ACT, 1857.

20 & 21 Vic. c. 57.

An Act to enable Married Women to dispose of Reversionary Interests in Personal Estate. [25th August, 1857.]

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same as follows :

1. After the thirty-first day of December one thousand eight hundred and fifty-seven, it shall be lawful for every married woman by deed to dispose of every future or reversionary interest, whether vested or contingent, of such married woman, or her husband in her right, in any personal estate whatsoever to which she shall be entitled under any instrument made after the said thirty-first day of December, one thousand eight hundred and fifty-seven (except such a settlement as after mentioned), and also to release or extinguish any power which may be vested in or limited or reserved to her in regard to any such personal estate, as fully and effectually as she could do if she were a feme sole, and also to release and extinguish her right or equity to a settlement out of any personal estate to which she, or her husband in her right, may be entitled in possession under any such instrument as aforesaid; save and except that no such disposition, release, or extinguishment shall be valid unless the husband concur in the deed by which the same shall be effected, nor unless the deed be acknowledged by her as herein-after directed. Provided always, that nothing herein contained shall extend to any reversionary interest to which she shall become entitled by virtue of any deed, will, or instrument by which she shall be restrained from alienating or affecting the same.

2. Every deed to be executed in England or Wales by a married woman for any of the purposes of this Act shall be acknowledged by her, and be otherwise perfected, in the manner in and by the Act passed in the third and fourth years of the reign of His late Majesty King William the Fourth, intituled "An Act for the abolition of fines and recoveries, and for the substitution of more simple modes of assurance," prescribed for the acknowledgment and perfecting of deeds disposing of interests of married women in land; and every deed to be executed in Ireland by a married woman for any of the purposes of this Act shall be acknowledged by her and be otherwise perfected in the manner in and by the Act passed in the fourth and fifth years of the reign of His late Majesty King William the Fourth, intituled "An Act for the abolition of

Married women may dispose of reversionary interests in personal estate, and release powers over such estate, and also their rights to a settlement out of such estate in possession.

Deeds under this Act to be acknowledged by married women in the manner required by 3 & 4 Will. 4. c. 74, in England, and by 4 & 5 Will. 4. c. 92, in Ireland.

finer and recoveries, and the substitution of more simple modes of assurance, in Ireland," prescribed for the acknowledgment and perfecting of deeds disposing of interests of married women in land; and all and singular the clauses and provisions in the said Acts concerning the disposition of lands by married women, including the provisions for dispensing with the concurrence of the husbands of married women, in the cases in the said Acts mentioned shall extend and be applicable to such interests in personal estate and to such powers as may be disposed of, released, or extinguished by virtue of this Act, as fully and effectually as if such interests or powers were interests in or powers over land.

Powers of disposition given by this Act not to interfere with any other powers.

3. Provided always, that the powers of disposition given to a married woman by this Act shall not interfere with any power which independently of this Act may be vested in or limited or reserved to her, so as to prevent her from exercising such power in any case, except so far as by any disposition made by her under this Act she may be prevented from so doing, in consequence of such power having been suspended or extinguished by such disposition.

Act not to extend to settlements of married women upon marriage.

4. Provided always, that the powers of disposition hereby given to a married woman shall not enable her to dispose of any interest in personal estate settled upon her by any settlement or agreement for a settlement made on the occasion of her marriage.

Extent of Act.

5. This Act shall not extend to Scotland.

DIVORCE AND MATRIMONIAL CAUSES ACT, 1857,

20 & 21 Vic. c. 85.

An Act to amend the Law relating to Divorce and Matrimonial Causes in England. [28th August, 1857.]

Wife deserted by her husband may apply to a police magistrate or justices in petty sessions, or to the Court for protection of her property.

21. A wife deserted by her husband may at any time after such desertion, if resident within the metropolitan district, apply to a police magistrate, or, if resident in the country, to justices in petty sessions, or in either case to the Court, for an order to protect any money or property she may acquire by her own lawful industry, and property which she may become possessed of, after such desertion against her husband or his creditors, or any person claiming under him: and such magistrate or justices or Court, if satisfied of the fact of such desertion, and that the same was without reasonable cause, and that the wife is maintaining herself by her own industry or property, may make and give to the wife an order protecting her

earnings and property acquired since the commencement of such desertion, from her husband and all creditors and persons claiming under him; and such earnings and property shall belong to the wife as if she were a feme sole: Provided always, that every such order, if made by a police magistrate or justices at petty sessions, shall within ten days after the making thereof, be entered with the registrar of the county court within whose jurisdiction the wife is resident: and that it shall be lawful for the husband, and any creditor or other person claiming under him, to apply to the Court, or to the magistrate or justices by whom such order was made, for the discharge thereof: Provided also, that if the husband or any creditor or person claiming under the husband shall seize or continue to hold any property of the wife after notice of any such order, he shall be liable, at the suit of the wife (which she is hereby empowered to bring), to restore the specific property, and also for a sum equal to double the value of the property so seized or held after such notice as aforesaid: If any such order of protection be made, the wife shall during the continuance thereof be and be deemed to have been, during such desertion of her, in the like position in all respects, with regard to property and contracts and suing and being sued, as she would be under this Act if she obtained a decree of judicial separation.

25. In every case of a judicial separation the wife shall, from the date of the sentence and whilst the separation shall continue, be considered as a feme sole with respect to property of every description which she may acquire or which may come to or devolve upon her; and such property may be disposed of by her in all respects as a feme sole, and on her decease the same shall, in case she shall die intestate, go as the same would have gone if her husband had been then dead; provided, that if any such wife should again cohabit with her husband, all such property as she may be entitled to when such cohabitation shall take place shall be held to her separate use, subject, however, to any agreement in writing made between herself and her husband whilst separate.

In case of judicial separation the wife to be considered a feme sole with respect to property she may acquire, &c.

26. In every case of a judicial separation the wife shall, whilst so separated, be considered as a feme sole for the purposes of contract, and wrongs and injuries, and suing and being sued in any civil proceeding; and her husband shall not be liable in respect of any engagement or contract she may have entered into, or for any wrongful act or omission by her, or for any costs she may incur as plaintiff or defendant: Provided, that where upon any such judicial separation alimony has been decreed or ordered to be paid to the wife, and the same shall not be duly paid by the husband, he shall be liable for necessaries supplied for her use: Provided also, that nothing shall prevent the wife from joining, at any time during such separation, in the exercise of any joint power given to herself and her husband,

and also for purposes of contract and suing.

Liability of husband for wife's necessaries.

Exercise of joint power.

DIVORCE AND MATRIMONIAL CAUSES ACT,

21 & 22 Vic. c. 108.

*An Act to amend the Act of the Twentieth and Twenty-first Victoria,
Chapter Eighty-five. [2nd August, 1858.]*

Wives deserted by their husbands may apply to the judge for an order to protect property, &c., acquired by them.

6. Every wife deserted by her husband, wheresoever resident in England, may, at any time after such desertion, apply to the said Judge Ordinary for an order to protect any money or property in England she may have acquired or may acquire by her own lawful industry, and any property she may have become possessed of or may become possessed of after such desertion, against her husband and his creditors, and any person claiming under him; and the Judge Ordinary shall exercise in respect of every such application all the powers conferred upon the Court for Divorce and Matrimonial Causes under the twentieth and twenty-first Victoria, chapter eighty-five, section twenty-one.

Provisions respecting property of wife to extend to property vested in her as executrix, &c.

7. The provisions contained in this Act and in the said Act of the twentieth and twenty-first Victoria, chapter eighty-five, respecting the property of a wife who has obtained a decree for judicial separation or an order for protection, shall be deemed to extend to property to which such wife has become or shall become entitled as executrix, administratrix, or trustee since the sentence of separation or the commencement of the desertion (as the case may be); and the death of the testator or intestate shall be deemed to be the time when such wife became entitled as executrix or administratrix.

Order for protection of earnings of wife, &c., to be deemed valid until reversed, &c.

8. In every case in which a wife shall under this Act or under the said Act of the twentieth and twenty-first Victoria, chapter eighty-five, have obtained an order to protect her earnings or property, or a decree for judicial separation, such order or decree shall, until reversed or discharged, so far as necessary for the protection of any person or corporation who shall deal with the wife, be deemed valid and effectual; and no discharge, variation, or reversal of such order or decree shall prejudice or affect any rights or remedies which any person would have had, in case the same had not been so reversed, varied, or discharged, in respect of any debts, contracts, or acts of the wife incurred, entered into, or done between the times of the making such order or decree and of the discharge, variation, or reversal thereof; and property of or to which the wife is possessed or entitled for an estate in remainder or reversion at the date of the desertion or decree (as the case may be) shall be deemed to be included in the protection given by the order or decree.

Order to state

9. Every order which shall be obtained by a wife under the said

Act of the twentieth and twenty-first Victoria, chapter eighty-five, the time at which the order is made commenced; and the order shall, as regards all persons dealing with such wife in reliance thereon, be conclusive as to the time when such desertion commenced.

10. All persons and corporations who shall, in reliance on any such order or decree as aforesaid, make any payment to or permit any transfer or act to be made or done by the wife who has obtained the same, shall, notwithstanding such order or decree may then have been discharged, reversed, or varied, or the separation of the wife from her husband may have ceased, or at some time since the making of the order or decree been discontinued, be protected and indemnified in the same way in all respects as if, at the time of such payment, transfer, or other act, such order or decree were valid and still subsisting without variation in full force and effect, and the separation of the wife from her husband had not ceased or been discontinued, unless at the time of such payment, transfer, or other act such persons or corporations had notice of the discharge, reversal, or variation of such order or decree, or of the cessation or discontinuance of such separation.

Indemnity to persons and corporations making payments, &c., under orders afterwards reversed, &c.

DIVORCE AND MATRIMONIAL CAUSES ACT AMENDMENT ACT, 1864.

27 & 28 Vic. c. 44.

An Act to amend the Act relating to Divorce and Matrimonial Causes in England, 20 & 21 Vic. c. 85.

[14th July, 1864.]

Whereas it is expedient to amend an Act passed in the twentieth and twenty-first years of the reign of Her present Majesty, chapter eighty-five: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. Where under the provisions of sec. 21 of the said Act a wife deserted by her husband shall have obtained or shall hereafter obtain an order protecting her earnings and property, from a police magistrate, or justices in petty sessions, or the Court for Divorce and Matrimonial Causes, as the case may be, the husband and any creditor or other person claiming under him may apply to the Court, or to the magistrate or justices by whom such order was made, for the discharge thereof, as by the said Act authorised; and in case the said order shall have been made by a police magistrate, and the said magistrate shall have died or been removed, or have become incapable of acting, then in every such case the husband or creditor,

Amendment of provisions of 20 & 21 Vic. c. 85, as to discharge of orders for protection of property of wives deserted by their husbands.

or such other person as aforesaid, may apply to the magistrate for the time being acting as the successor or in the place of the magistrate who made the order of protection, for the discharge of it, who shall have authority to make an order discharging the same; and an order for discharge of an order for protection may be applied for to and granted by the Court, although the order for protection was not made by the Court, and an order for protection made at one petty sessions may be discharged by the justices of any later petty sessions, or by the Court.

NATURALIZATION ACT, 1870.

33 & 34 Vic. c. 14.

An Act to amend the Law relating to the legal condition of Aliens and British Subjects. [12th May, 1870.]

National status of married women and infant children.

National status
of married
women and
infant children.

10. The following enactments shall be made with respect to the national status of women and children :

- (1.) A married woman shall be deemed to be a subject of the state of which her husband is for the time being a subject :
- (2.) A widow being a natural-born British subject, who has become an alien by or in consequence of her marriage, shall be deemed to be a statutory alien, and may as such at any time during widowhood obtain a certificate of re-admission to British nationality in manner provided by this Act :
- (3.) Where the father being a British subject, or the mother being a British subject and a widow, becomes an alien in pursuance of this Act, every child of such father or mother who during infancy has become resident in the country where the father or mother is naturalized, and has, according to the laws of such country, become naturalized therein, shall be deemed to be a subject of the state of which the father or mother has become a subject, and not a British subject :
- (4.) Where the father, or the mother being a widow, has obtained a certificate of re-admission to British nationality, every child of such father or mother who during infancy has become resident in the British dominions with such father or mother, shall be deemed to have resumed the position of a British subject to all intents :
- (5.) Where the father, or the mother being a widow, has obtained a certificate of naturalization in the United Kingdom, every child of such father or mother who during infancy has become resident with such father or mother in any part of the United Kingdom, shall be deemed to be a naturalized British subject.

MARRIED WOMEN'S PROPERTY ACT, 1870.

33 and 34 Vic. c. 93.

An Act to amend the Law relating to the Property of Married Women.
[9th August, 1870.]

Whereas it is desirable to amend the law of property, and contract with respect to married women :

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled. and by the authority of the same, as follows :

1. The wages and earnings of any married woman acquired or gained by her after the passing of this Act in any employment, occupation, or trade in which she is engaged, or which she carries on separately from her husband, and also any money, or property so acquired by her through the exercise of any literary, artistic, or scientific skill, and all investments of such wages, earnings, money, or property, shall be deemed and be taken to be property held and settled to her separate use, independent of any husband to whom she may be married, and her receipts alone shall be a good discharge for such wages, earnings, money, and property. Earnings of married women to be deemed their own property.

2. Notwithstanding any provision to the contrary in the Act of the tenth year of George the Fourth, chapter twenty-four, enabling the Commissioners for the Reduction of the National Debt to grant life annuities and annuities for terms of years, or in the Acts relating to savings banks and post office savings banks, any deposit hereafter made, and any annuity granted by the said Commissioners under any of the said Acts in the name of a married woman, or in the name of a woman who may marry after such deposit or grant, shall be deemed to be the separate property of such woman, and the same shall be accounted for and paid to her as if she were an unmarried woman; provided that if any such deposit is made by, or such annuity granted to, a married woman by means of moneys of her husband without his consent, the Court may, upon an application under section nine of this Act, order such deposit or annuity or any part thereof to be paid to the husband. Deposits in savings banks by a married woman to be deemed her separate property.

3. Any married woman, or any woman about to be married, may apply to the Governor and Company of the Bank of England, or to the Governor and Company of the Bank of Ireland, by a form to be provided by the governor of each of the said banks and company for that purpose, that any sum forming part of the public stocks and funds, and not being less than £20, to which the woman so applying is entitled, or which she is about to acquire, may be transferred to or made to stand in the books of the governor and As to a married woman's property in the funds.

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Optimal solution
of mixed
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this Act, order the same and the dividends and profits thereon, or any part thereof, to be transferred and paid to the husband.

6. Nothing hereinbefore contained in reference to moneys deposited in or annuities granted by savings banks or moneys invested in the funds or in shares or stock of any Company shall as against creditors of the husband give validity to any deposit or investment of moneys of the husband made in fraud of such creditors, and any moneys so deposited or invested may be followed as if this Act had not passed.

Deposit of moneys in fraud of creditors invalid.

7. Where any woman married after the passing of this Act shall during her marriage become entitled to any personal property as next of kin or one of the next of kin of an intestate, or to any sum of money not exceeding two hundred pounds under any deed or will, such property shall, subject and without prejudice to the trusts of any settlement affecting the same, belong to the woman for her separate use, and her receipts alone shall be a good discharge for the same.

Personal property not exceeding 200*l.* coming to a married woman to be her own.

8. When any freehold, copyhold, or customaryhold property shall descend upon any woman married after the passing of this Act as heiress or co-heiress of an intestate, the rents and profits of such property shall, subject and without prejudice to the trusts of any settlement affecting the same, belong to such woman for her separate use, and her receipts alone shall be a good discharge for the same.

Freehold property coming to a married woman, rents and profits only to be her own.

9. In any question between husband and wife as to property declared by this Act to be the separate property of the wife, either party may apply by summons or motion in a summary way either to the Court of Chancery in England or Ireland according as such property is in England or Ireland, or in England (irrespective of the value of the property) the judge of the County Court of the district in which either party resides, and thereupon the judge may make such order, direct such inquiry, and award such costs, as he shall think fit; provided that any order made by such judge shall be subject to appeal in the same manner as the order of the same judge made in a pending suit or on an equitable plaint would have been, and the judge may, if either party so require, hear the application in his private room.

How questions as to ownership of property to be settled.

10. A married woman may effect a policy of insurance upon her own life or the life of her husband for her separate use, and the same and all benefit thereof, if expressed on the face of it to be so effected, shall enure accordingly, and the contract in such policy shall be as valid as if made with an unmarried woman.

Married woman may effect policy of insurance.

A policy of insurance effected by any married man on his own life, and expressed upon the face of it to be for the benefit of his wife or of his wife and children, or any of them, shall enure and be deemed a trust for the benefit of his wife for her separate use, and of his children, or any of them, according to the interest so expressed.

As to insurance of a husband for benefit of his wife.

and shall not, so long as any object of the trust remains, be subject to the control of the husband or to his creditors, or form part of his estate. When the sum secured by the policy becomes payable or at any time previously, a trustee thereof may be appointed by the Court of Chancery in England or in Ireland according as the policy of insurance was effected in England or in Ireland, or in England by the judge of the County Court of the district, or in Ireland by the chairman of the Civil Bill Court of the division of the county in which the insurance office is situated, and the receipt of such trustee shall be a good discharge to the office. If it shall be proved that the policy was effected and premiums paid by the husband with intent to defraud his creditors, they shall be entitled to receive out of the sum secured an amount equal to the premiums so paid.

Married women
may maintain
an action.

11. A married woman may maintain an action in her own name for the recovery of any wages, earnings, money and property by this Act declared to be her separate property, or of any property belonging to her before marriage, and which her husband shall, by writing under his hand, have agreed with her shall belong to her after marriage as her separate property, and she shall have in her own name the same remedies, both civil and criminal, against all persons whomsoever for the protection and security of such wages, earnings, money and property, and of any chattels or other property purchased or obtained by means thereof for her own use, as if such wages, earnings, moneys, chattels and property belonged to her as an unmarried woman; and in any indictment or other proceeding it shall be sufficient to allege such wages, earnings, money, chattels and property to be her property.

Husband not to
be liable on his
wife's contracts
before
marriage.

12. A husband shall not, by reason of any marriage which shall take place after this Act has come into operation, be liable for the debts of his wife contracted before marriage, but the wife shall be liable to be sued for, and any property belonging to her for her separate use shall be liable to satisfy such debts as if she had continued unmarried.

Married woman
to be liable to
the parish for
the main-
tenance of
her husband.

13. Where in England the husband of any woman having separate property becomes chargeable to any union or parish, the justices having jurisdiction in such union or parish may, in petty sessions assembled, upon application of the guardians of the poor, issue a summons against the wife, and make and enforce such order against her for the maintenance of her husband as by the thirty-third section of "The Poor Law Amendment Act, 1868," they may now make and enforce against a husband for the maintenance of his wife who becomes chargeable to any union or parish. Where in Ireland relief is given under the provisions of the Act, relating to the relief of the destitute poor to the husband of any woman having separate property, the cost price of such relief is hereby declared to be a loan from the guardians of the union in which the

same shall be given, and shall be recoverable from such woman as if she were a feme sole by such and the same actions and proceedings as money lent.

14. A married woman having separate property shall be subject to all such liability for the maintenance of her children as a widow is now by law subject to for the maintenance of her children : Provided always, that nothing in this Act shall relieve her husband from any liability at present imposed upon him by law to maintain her children.

Married woman to be liable to the parish for the maintenance of her children.

15. This Act shall come into operation at the time of the passing of this Act.

Commencement of Act.

16. This Act shall not extend to Scotland.

Act not to extend to Scotland. Short title.

17. This Act may be cited as the "Married Women's Property Act, 1870."

MARRIED WOMEN'S PROPERTY ACT (1870) AMENDMENT ACT, 1874.

37 & 38 Vic. c. 50.

An Act to amend the Married Women's Property Act (1870).

[30th July, 1874.]

Whereas it is not just that the property which a woman has at the time of her marriage should pass to her husband, and that he should not be liable for her debts contracted before marriage, and the law as to the recovery of such debts requires amendment :

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. So much of the Married Women's Property Act, 1870, as enacts that a husband shall not be liable for the debts of his wife contracted before marriage is repealed so far as respects marriages which shall take place after the passing of this Act, and a husband and wife married after the passing of this Act may be jointly sued for any such debt.

Husband and wife may be jointly sued for her debts before marriage.

2. The husband shall, in such action and in any action brought for damages sustained by reason of any tort committed by the wife before marriage or by reason of the breach of any contract made by the wife before marriage, be liable for the debt or damages respectively to the extent only of the assets hereinafter specified ; and in

Extent to which husband liable.

addition to any other plea or pleas may plead that he is not liable to pay the debt or damages in respect of any such assets as herein-after specified; or, confessing his liability to some amount, that he is not liable beyond what he so confesses; and if no such plea is pleaded the husband shall be deemed to have confessed his liability so far as assets are concerned.

If husband without assets he shall have judgment for costs.

Joint and separate judgment against husband and wife for debt.

Assets for which husband liable.

3. If it is not found in such action that the husband is liable in respect of any such assets, he shall have judgment for his costs of defence, whatever the result of the action may be against the wife.

4. When a husband and wife are sued jointly, if by confession or otherwise it appears that the husband is liable for the debt or damages recovered, or any part thereof, the judgment to the extent of the amount for which the husband is liable shall be a joint judgment against the husband and wife, and as to the residue, if any, of such debt or damages, the judgment shall be a separate judgment against the wife.

5. The assets in respect of and to the extent of which the husband shall in any such action be liable are as follows:

- (1.) The value of the personal estate in possession of the wife, which shall have vested in the husband:
- (2.) The value of the choses in action of the wife which the husband shall have reduced into possession, or which with reasonable diligence he might have reduced into possession:
- (3.) The value of the chattels real of the wife which shall have vested in the husband and wife:
- (4.) The value of the rents and profits of the real estate of the wife which the husband shall have received, or with reasonable diligence might have received:
- (5.) The value of the husband's estate or interest in any property, real or personal, which the wife, in contemplation of her marriage with him, shall have transferred to him or to any other person:
- (6.) The value of any property, real or personal, which the wife in contemplation of her marriage with the husband shall with his consent have transferred to any person with the view of defeating or delaying her existing creditors:

Provided that when the husband after marriage pays any debt of his wife, or has a judgment *bonâ fide* recovered against him in any such action as in this Act mentioned, then to the extent of such payment or judgment the husband shall not in any subsequent action be liable.

Extent of Act.
Short title.

6. This Act shall not extend to Scotland.

7. This Act may be cited as the "Married Women's Property Act (1870) Amendment Act, 1874."

CONVEYANCING AND LAW OF PROPERTY ACT, 1881

(44 & 45 Vic. c. 41).

An Act for simplifying and improving the practice of Conveyancing; and for vesting in Trustees, Mortgagees and others, various powers commonly conferred by provisions inserted in Settlements, Mortgages, Wills, and other Instruments; and for amending in various particulars the Law of Property; and for other purposes.

39.—(1.) Notwithstanding that a married woman is restrained from anticipation, the Court may, if it thinks fit, where it appears to the Court to be for her benefit, by judgment or order, with her consent, bind her interest in any property. Power for Court to bind interest of married woman.

(2.) This section applies only to judgments or orders made after the commencement of this Act.

40.—(1.) A married woman, whether an infant or not, shall by virtue of this Act have power, as if she were unmarried and of full age, by deed, to appoint an attorney on her behalf for the purpose of executing any deed or doing any other act which she might herself execute or do; and the provisions of this Act relating to instruments creating powers of attorney shall apply thereto. Power of attorney of married woman.

(2.) This section applies only to deeds executed after the commencement of this Act.

50.—(1.) Freehold land, or a thing in action, may be conveyed by a person to himself jointly with another person, by the like means by which it might be conveyed by him to another person; and may, in like manner, be conveyed by a husband to his wife, and by a wife to her husband, alone or jointly with another person. Conveyance by a person to himself, &c.

(2.) This section applies only to conveyances made after the commencement of this Act.

CONVEYANCING ACT, 1882.

(45 & 46 Vic. c. 39.)

An Act for further improving the Practice of Conveyancing; and for other purposes. [10th August, 1882.]

Married Women.

7.—(1.) In section seventy-nine of the Fines and Recoveries Act, and section seventy of the Fines and Recoveries (Ireland) Act, there shall, by virtue of this Act, be substituted for the words "two of the Acknowledgment of deeds by married women.

perpetual commissioners, or two special commissioners," the words "one of the perpetual commissioners, or one special commissioner;" and in section eighty-three of the Fines and Recoveries Act, and section seventy-four of the Fines and Recoveries (Ireland) Act, there shall, by virtue of this Act, be substituted for the word "persons" the word "person," and for the word "commissioners" the words "a commissioner;" and all other provisions of those Acts and all other enactments having reference in any manner to the sections aforesaid, shall be read and have effect accordingly.

(2.) Where the memorandum of acknowledgment by a married woman of a deed purports to be signed by a person authorised to take the acknowledgment, the deed shall, as regards the execution thereof by the married woman, take effect at the time of acknowledgment, and shall be conclusively taken to have been duly acknowledged.

(3.) A deed acknowledged before or after the commencement of this Act by a married woman, before a judge of the High Court of Justice in England or Ireland, or before a judge of a County Court in England, or before a chairman in Ireland, or before a perpetual commissioner or a special commissioner, shall not be impeached or impeachable by reason only that such judge, chairman, or commissioner was interested or concerned either as a party, or as solicitor, or clerk to the solicitor for one of the parties, or otherwise, in the transaction giving occasion for the acknowledgment; and general rules shall be made for preventing any person interested or concerned as aforesaid from taking an acknowledgment; but no such rule shall make invalid any acknowledgment; and those rules shall, as regards England, be deemed rules of Court within section seventeen of the Appellate Jurisdiction Act, 1876, as altered by section nineteen of the Supreme Court of Judicature Act, 1881, and shall, as regards Ireland, be deemed rules of Court within the Supreme Court of Judicature Act (Ireland), 1877, and may be made accordingly, for England and Ireland respectively, at any time after the passing of this Act, to take effect on or after the commencement of this Act.

(4.) The enactments described in the schedule to this Act are hereby repealed.

(5.) The foregoing provisions of this section, including the repeal therein, apply only to the execution of deeds by married women after the commencement of this Act.

(6.) Notwithstanding the repeal or any other thing in this section, the certificate, if not lodged before the commencement of this Act, of the taking of an acknowledgment by a married woman of a deed executed before the commencement of this Act, with any affidavit relating thereto, shall be lodged, examined, and filed in the like manner and with the like effects and consequences as if this section had not been enacted.

39 & 40 Vic.
c. 59.
44 & 45 Vic.
c. 68.
40 & 41 Vic.
c. 57.

(7.) There shall continue to be kept in the proper office of the Supreme Court of Judicature an index to all certificates of acknowledgments of deeds by married women lodged therein, before or after the commencement of this Act, containing the names of the married women and their husbands, alphabetically arranged, and the dates of the certificates and of the deeds to which they respectively relate, and other particulars found convenient; and every such certificate lodged after the commencement of this Act shall be entered in the index as soon as may be after the certificate is filed.

(8.) An office copy of any such certificate filed before or after the commencement of this Act shall be delivered to any person applying for the same; and every such office copy shall be received as evidence of the acknowledgment of the deed to which the certificate refers.

SCHEDULE.

REPEALS.

| | |
|-----------------------------------|---|
| 3 & 4 Will. 4, c. 74 - in part | The Fines and Recoveries } Act - - - - - } in part; namely,— Section 7 (4). Section eighty-four, from and including the words “and the same judge,” to the end of that section. Sections eighty-five to eighty-eight inclu- sive. |
| 4 & 5 Will. 4, c. 92 - n part | The Fines and Recoveries } (Ireland) Act - - - } in part; namely,— Section seventy-five, from and including the words “and the same judge,” to the end of that section. Section seventy-six to seventy-nine inclu- sive. |
| 17 & 18 Vic. c. 75 - | An Act to remove doubts concerning the due acknowledgments of deeds by married women in certain cases. |
| 41 & 42 Vic. c. 23 - | The Acknowledgment of Deeds by Married Women (Ireland) Act, 1878. |

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| 104d | | COSTS under Order XIV., Rule 1. |
| CHANCERY DIVISION FORMS AND SUMMONSES. | | |
| NOTE.—These forms can be used for Administration, &c., suits, by adding above the title, "In the matter of.....deceased." | | |
| 1 | | GENERAL FORM OF SUMMONS. |
| 2 | | SUMMONS for Time. |
| 3 | | „ under Order XV., R. 1. |
| 4 | | ADMINISTRATION SUMMONS. |
| 5 | | SUMMONS to proceed. |
| 6 | | „ for security for Costs. |
| 7 | | „ to amend. |
| 8 | | „ to dismiss for want of Prosecution. |

| No. reqd. | Catalogue Number. | CHANCERY DIVISION FORMS, &c.— <i>continued.</i> |
|--------------|----------------------|---|
| | 9 | SUMMONS for leave to issue Interrogatories. |
| | 10 | „ for Discovery. |
| | 11 | „ to consider sufficiency of Affidavits of Documents. |
| | 12 | „ for appointment of Examiner. |
| | 13 | „ by Purchaser for leave to pay purchase-money into Court. |
| | 14 | „ to compel Purchaser to pay purchase-money into Court. |
| | 15 | „ for confirmation of conditional Contract. |
| | 16 | „ for discharge of Receiver. |
| | 17 | „ for Order to pay money into Court. |
| | 18 | „ for payment out of Court. |
| | 19 | „ for Stop Order. |
| 106 | | AFFIDAVIT of Service of Interrogatories. |
| 107 | | AFFIDAVIT of Auctioneer of Result of Sale. |
| 108 | | AFFIDAVIT, Sureties of Receiver, Justifying. |
| 109 | | AFFIDAVIT by Executors, verifying accounts and answering usual inquiries as to Real and Personal Estate. |
| 111 | | AFFIDAVIT, proving Debt. |
| 116 | | BIDDING PAPER, Form of. |
| 116a | | ADVERTIZEMENT for Creditors to come in and prove. |
| 117 | | CLAIM SHEETS. 1st and 2nd parts. |
| 118 | | CONTINUATION SHEETS. |
| 118a | | AFFIDAVIT of Investigation of Claims. |
| 119 | | CONDITIONS OF SALE (Draft). |
| 120 | | CERTIFICATE of Lower Scale. |
| 122 | | NOTICE for Cross-Examination. |
| 124 | | ORDER to change Solicitor. |
| 127 | | PETITION to change Solicitor. |
| 128 | | PETITION to change Agent. |
| 129 | | PETITION to change Solicitor and Agent. |
| 130 | | RECOGNIZANCES—Auctioneers (Draft). |
| 131 | | RECOGNIZANCES—Official Liquidators (Draft). |
| 132 | | RECOGNIZANCES—Receivers (Draft). |
| 137 | | SUMMONS for conduct of action or cause. |
| 140 | | SUMMONS to appoint Receiver. |
| 142 | | SUMMONS to bring in Accounts. |
| 145 | | SUMMONS to vary Chief Clerk's Certificate. |
| 146 | | SUMMONS for opinion of Judge on Certificate. |
| | | EXECUTORS' OR RECEIVERS' ACCOUNT PAPER. |
| | | RECEIPTS only. |
| | | PAYMENTS only. |
| | | PAYMENTS AND ALLOWANCES, Real Estate. |
| | | PAYMENTS AND ALLOWANCES, Personal Estate. |
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| | | DIVORCE DIVISION. |
| 148 | | APPEARANCE, Memorandum of. |
| 149 | | AFFIDAVIT of Search for Appearance. |
| 150 | | AFFIDAVIT of Service of Citation. |
| 151 | | AFFIDAVIT of Service, open form. |
| 152 | | AFFIDAVIT to make Rule Nisi absolute. |
| 153 | | CITATION, Parchment and Paper. 154 Præcipe for ditto. |
| 155 | | NOTICE as to Mode of Trial. |

| No. reqd. | Catalogue Number. | |
|--------------|----------------------|--|
| | | DIVORCE DIVISION—continued. |
| 156 | | NOTICE of having set down Action for Trial. |
| 41 | | NOTICE to Admit Documents. |
| 38 | | NOTICE to Produce Documents. |
| 157 | | ORDER. |
| 158 | | SUBPŒNA <i>ad Test.</i> 159 Præcipe for ditto. |
| 160 | | SUBPŒNA <i>Duces tecum.</i> 161 Præcipe for ditto. |
| 162 | | SETTING-DOWN Cause or Action. |
| 163 | | SUMMONS. 163a Summons for Discovery. |
| 164 | | SUMMONS for change of Solicitor by Husband. |
| 165 | | SUMMONS for change of Solicitor by Wife. |
| 166 | | SUMMONS for an Order of Protection under 21 Vict. |
| 192 | | SUMMONS for Improvement for non-payment of Costs, &c. |
| 193 | | SUMMONS to discontinue Cause or Action. |
| 104a | | WRIT of <i>Fi. Fa.</i> |
| | | <hr/> |
| | | ADMIRALTY DIVISION. |
| 148 | | APPEARANCE, Memorandum of. |
| 151 | | AFFIDAVIT of SERVICE, open form. |
| B. 17 | | NOTICE of MOTION. |
| 168 | | PRELIMINARY ACT. |
| 169 | | SUMMONS. |
| 170 | | SUBPŒNA, Parchment and Paper. |
| 171 | | WARRANT. Ship, Ship and Freight, and Ship Cargo and Freight. |
| A. 4 B. | | WRIT in Admiralty Actions. |
| | | <hr/> |
| | | ADMISSION FORMS. |
| 174 | | ARTICLES of Clerkship, in draft, 1s. |
| 174A | | ARTICLES of Clerkship, in draft (Father & Son), 1s. |
| 175 | | ASSIGNMENT of Articles, 1s. |
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| 177 | | AFFIDAVIT of Execution of Assignment of Articles, 6d. each. |
| 178 | | AFFIDAVIT of having Matriculated, 6d. each. |
| 179 | | INSTRUCTIONS and DIRECTIONS for Admission. Taking out Certificate, Filing Articles of Clerkship, and as to intermediate Examination, &c., 2s. per dozen. |
| 180 | | NOTICE for Preliminary Examination, 1s. per dozen. |
| 181 | | NOTICE for Intermediate, 1s. per dozen. |
| 182 | | NOTICE to Obtain or renew Certificate, 1s. per dozen. |
| 183 | | NOTICE for Admission, 1s. per dozen. |
| 184 | | NOTICE for final Examination, 1s. per dozen. |
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IN THE PROBATE DIVISION

Of the High Court of Justice for Principal and District Registries.

CONTENTIOUS BUSINESS.

| No. reqd. | Catalogue Number. | <i>Half-sheet, 1s. 6d. per Quire. Fly-sheet Form, 2s. 6d. per Quire.</i> |
|--------------|----------------------|--|
| | 189 | AFFIDAVIT of Scripts. |
| | 188 | AFFIDAVIT of Search for Appearance. |
| | 186 | AFFIDAVIT of Service of Citation. |
| | 187 | AFFIDAVIT of Service of Warning. |
| | 151 | AFFIDAVIT of Service, Open Form. |
| | 148 | APPEARANCE. Memorandum of. |
| | 156 | NOTICE of having set down Action. |
| | 41 | NOTICE to admit Documents. |
| | 38 | NOTICE to produce Documents. |
| | 155 | NOTICE as to mode of Trial. 157. ORDER. |
| | 154 | PRÆCIPE for Citation. |
| | 191 | PRÆCIPE for Subpœna to bring in Script. |
| | 159 | PRÆCIPE for Subpœna <i>ad Test.</i> |
| | 161 | PRÆCIPE for Subpœna <i>Duces tecum.</i> |
| | 162 | SETTING-DOWN Action. |
| | 190 | SUBPŒNA in a proceeding in Common Form to bring in Scripts. |
| | 158 | SUBPŒNA <i>ad Test.</i> for Service. |
| | 160 | SUBPŒNA <i>Duces tecum.</i> |
| | 163 | SUMMONS. 163 <i>a.</i> SUMMONS for Discovery. |
| | 192 | SUMMONS for Imprisonment for Non-payment of Costs, &c. |
| | 193 | SUMMONS to discontinue a Cause or Action. |
| | 194 | WRIT OF SUMMONS. 194 <i>a.</i> WRIT of <i>Fi. Fa.</i> |

PRINCIPAL REGISTRY.—NON-CONTENTIOUS BUSINESS.

| | | |
|--------------|---|---------------------|
| 195 | AFFIDAVIT. Attesting Witness, in proof of Will. | |
| 196 | New Affidavit for Inland Revenue, with Account and Schedule for Debts (over £300) | } 5/- per quire. |
| 197 | New Affidavit for ditto (under £300) | |
| 202 | OATH for Executors. | |
| 204 | OATH for Administrators. | |
| 203 | OATH for Administrators with Will. | |
| 205 | ADMINISTRATION Bond. | |
| 206 | ADMINISTRATION Bond for Administrators with Will. | |
| 207 | DECLARATION of the Personal Estate of a Deceased. | |
| 208 | JUSTIFICATION of Sureties. | |
| 209 | ELECTION by Minors of a Guardian. | |
| 209 <i>a</i> | OATH of Guardian administering for Minors. | |
| 210 | RENUNCIATION of Probate and Administration with Will. | |
| 211 | RENUNCIATION of Administration. | |
| 216 | AFFIDAVIT of Handwriting. | |
| 217 | AFFIDAVIT of Plight and Condition of Finding. | |
| 218 | AFFIDAVIT of Search. | |
| 219 | CAVEAT. 220. WARNING to Caveat. | |
| 221 | AFFIDAVIT as to Interlineations and Alterations. | |

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PROBATE DIVISION—PRINCIPAL REGISTRY.
NON-CONTENTIOUS BUSINESS—continued.

| No. reqd. | Catalogue Number. | |
|--------------|----------------------|---|
| 222 | | AFFIDAVIT for increasing the Amount of the Estate. |
| 223 | | AFFIDAVIT of a Marksman. |
| 224 | | AFFIDAVIT of Service. |
| 225 | | AFFIDAVIT of Domicile. |
| 226 | | OATH for double Probate. |
| 227 | | OATH for Administrators <i>de bonis non</i> . |
| 228 | | OATH for Administrators with the Will <i>de bonis non</i> . |
| 229 | | OATH for Executors including Scotch Property. |
| 230 | | OATH for Administrators including Scotch Property. |
| 231 | | OATH for Administrators with the Will, including Scotch Property. |
| 232 | | RENUNCIATION of Probate <i>only</i> . |
| 233 | | CERTIFICATE of Reason of Delay. |
| 234 | | SCHEDULE for FEES.—Will and Administration with Will. |
| 235 | | SCHEDULE for FEES.—Administration. |
| 236 | | MEMORIAL for Free Duty Stamp on <i>de bonis</i> Grants, &c. |
| 236a | | STATUTORY Advertisement to Creditors. |

PROBATE DIVISION—DISTRICT REGISTRIES.
NON-CONTENTIOUS BUSINESS.

| | | |
|------|--|---------------------|
| 243 | NOTICE of Entry of a Caveat. | |
| 195 | AFFIDAVIT of Attesting Witness, in proof of Will. | |
| 196 | New Affidavit for Inland Revenue, with Account and Schedule for Debts (over £300) | } 5/- per quire. |
| 197 | New Affidavit for ditto (under £300) | |
| 250 | OATH for Executors. | |
| 251 | OATH for Administrators with Will. | |
| 252 | OATH for Administrators. | |
| 253 | ADMINISTRATION Bond. | |
| 254 | ADMINISTRATION Bond.—For Administrators with Will. | |
| 255 | DECLARATION of the Personal Estate of a Deceased. | |
| 256 | JUSTIFICATION of Sureties. | |
| 257 | ELECTION by Minors of a Guardian. | |
| 257a | OATH of Guardian administering for Minors. | |
| 258 | RENUNCIATION of Probate and Administration with Will. | |
| 259 | RENUNCIATION of Administration. | |
| 216 | AFFIDAVIT of Handwriting. | |
| 217 | AFFIDAVIT of Plight and Condition and Finding. | |
| 218 | AFFIDAVIT of Search. | |
| 219 | CAVEAT. | |
| | All Forms of Grants of Probate, Administration, Administration with Will annexed. Double Probate, Administration <i>de bonis</i> <i>non</i> , Limited Grant, &c. | |

FORMS AS TO RETURN AND INCREASE OF PROBATE AND ADMINISTRATION DUTY.

- | | |
|---|---|
| <p>851 Affidavit for Return of Probate or Administration Duty on ground of Debts.</p> <p>853 Ditto, ditto, on Ground of Mistake.</p> <p>855 Affidavit for Increase of Probate or Administration ditto.</p> <p><i>These three Affidavits are to be used for all grants extracted previous to 1st June, 1881.</i></p> | <p>857 Memorial for Free Duty Mark. 6d. each or 3s. per doz.</p> <hr/> <p>857a Succession Duty Forms No. 6 (printed on Parchment 1s. each; 10s. per doz.</p> <p>857b Ditto, No. 7, for Instalments, 6d. each.</p> |
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| | (A) | Deed of Statutory Transfer, Mortgagor not joining ... | 4d. |
| | (B) | Deed of Statutory Transfer, a Covenantor joining ... | 6d. |
| | (C) | Statutory Transfer and Statutory Mortgage combined ... | 6d. |
| | | Deed of Statutory Reconveyance of Mortgage ... | 4d. |

Short Forms of Deeds.

| | | |
|-----|---|-----|
| I | Mortgage ... | 8d. |
| II | Further Charge ... | 6d. |
| III | Conveyance on Sale by Mortgagees, Mortgagor joining ... | 8d. |
| IV | Marriage Settlement ... | 8d. |

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| 1 | Conveyance of Freeholds to a Purchaser in Fee ... | 6d. |
| 2 | Conveyance of Freeholds subject to a Lease ... | 6d. |
| 3 | Conveyance of Freeholds by Mortgagee, Mortgagor joining ... | 6d. |
| 4 | Conveyance of Freeholds by a Mortgagee, Mortgagor not joining ... | 6d. |
| 5 | Conveyance of Equity of Redemption in Freeholds, Purchaser covenanting to pay off the Mortgage ... | 6d. |
| 5a | Conveyance of Equity of Redemption in Leaseholds, Purchaser covenanting to pay off the Mortgage ... | 8d. |
| 6 | Conveyance of Equity of Redemption in Freeholds to a Mortgagee as Purchaser ... | 6d. |
| 7 | Conveyance of Leaseholds to a Purchaser ... | 6d. |
| 8 | Conveyance of Leaseholds by an Executor ... | 8d. |
| 9 | Conveyance of Freeholds and Leaseholds to a Purchaser ... | 8d. |
| 10 | Conveyance by a Husband and Wife of Freeholds, the Property of the Wife ... | 6d. |
| 11 | Conveyance of Freeholds by a Husband to his Wife ... | 4d. |
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| | 14 | Conveyance of a Life Estate in Freeholds | 6d. |
| | 15 | Conveyance of Freeholds by personal representative of a Deceased Vendor to a Purchaser | 6d. |
| | 16 | Conveyance of Freeholds by a Trustee, under a Trust for Sale contained in a Will | 6d. |
| | 17 | Surrender of a Lease to a Lessor | 6d. |
| | 18 | Conveyance of Household Furniture and Effects | 4d. |
| | 19 | Mortgage of Freeholds | 10d. |
| | 20 | Mortgage of Copyholds | 8d. |
| | 21 | Mortgage of Leaseholds | 1s. |
| | 22 | Mortgage of Freeholds and Leaseholds | 1s. |
| | 23 | Mortgage by Husband and Wife of Freehold Lands belonging to Wife | 10d. |
| | 24 | Mortgage of an Equity of Redemption of Freeholds | 10d. |
| | 25 | Mortgage of Leaseholds by Executor | 1s. |
| | 26 | Mortgage of a Mortgage of Freeholds | 8d. |
| | 27 | Mortgage of a Legacy | 6d. |
| | 28 | Further Charge | 6d. |
| | 29 | Transfer of Mortgage of Freeholds, Mortgagor joining | 6d. |
| | 30 | Transfer of Mortgage of Freeholds, Mortgagor not joining | 6d. |
| | 31 | Transfer of Mortgage of Freeholds, a further sum being advanced to the Mortgagor | 8d. |
| | 32 | Re-conveyance of Freeholds or Leaseholds | 6d. |
| | 33 | Deed converting a long Term into a Fee Simple | 4d. |
| | 34 | Acknowledgment of right to production of Title Deeds | |
| | 35 | Building Lease | 4d. |
| | 36 | Lease of a House | 10d. |
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| | 764 | Do. do. Copyhold do. | 5s. |

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| No. reqd. | Cat. No. | | Price. |
|--------------|-------------|--|--------|
| | 1 | ARTICLES OF PARTNERSHIP. —Agreement to become Partners—Proviso for determination at end of first 7 years—Place of Business—Capital—Profits—Proviso for Monthly Drawing—As to giving credit—Neither Partner to engage in any other business—As to borrowing money and hiring and dismissing Servants—Neither to become indebted to Partnership without consent—Books of Account to be kept—Annual Accounts and Valuations to be made—Not to compound debts, give release, or become Surety without consent—Provision as to determining—Provision for execution of Indemnities and Releases—Provision in case of determination otherwise than by death—In case of death of one, the Survivors to be at liberty to purchase premises—Reference to Arbitrators. | 2/- |
| 2 | | ASSIGNMENT OF LEASEHOLD | -/9 |
| 37 | | DEED OF ENFRANCHISEMENT OF COPYHOLD HEREDITAMENTS ... | -/8 |
| 3 | | CONVEYANCE (Vendor to Purchaser in Fee) | -/8 |
| 4 | | CONVEYANCE BY APPOINTMENT AND GRANT (without any Recitals) | -/8 |
| 5 | | CONVEYANCE BY A MORTGAGEE UNDER POWER OF SALE, MORTGAGOR NOT A PARTY | -/9 |
| 6 | | CONVEYANCE OF FREEHOLDS BY MORTGAGOR AND MORTGAGEE... | -/9 |
| 7 | | CONVEYANCE OF FREEHOLDS AND LEASEHOLDS | 1/- |
| 8 | | COVENANT TO PRODUCE DEEDS | -/8 |
| 9 | | LEASE (BUILDING) | 1/- |
| 10 | | LEASE (OF A HOUSE) | 1/- |
| 35 | | LEASE OF A FARM | 2/- |
| 36 | | MINING LEASE OF IRONSTONE, IRON ORE, LIMESTONE AND CLAY. —Covenants by Lessees to pay rents, royalties and taxes—To work vigorously—To employ sufficient Workmen and Miners—Not to commit trespass or injure adjacent Lands—To fence works and place gates—To afford communication over Roads and Ways—No stone or brick clay to be carried off the lands, &c.—Power to be present at the weighing—And keep accurate plans and workings drawn—And deliver yearly a copy thereof—Not to underlet or assign—To observe all Statutory Provisions—If Minerals and Stone exhausted, Lessees may determine the Lease. | 2/3 |
| 41 | | LEASE OF COAL MINE, FIRECLAY, &c. —Containing Covenants similar to above Lease. | 3/6 |
| 11 | | LICENCE TO ASSIGN LEASE. —Recital of Lease and Covenant not to assign—Witnesseth—Grant of Licence. | -/6 |
| 12 | | SURRENDER OF LEASE | -/8 |
| 13 | | SURRENDER OF LEASE BY INDORSEMENT | -/6 |
| 14 | | MEMORIAL OF REGISTRATION OF LEASE | -/6 |
| 15 | | MEMORIAL OF REGISTRATION OF ASSIGNMENT | -/6 |
| 15a | | MEMORIAL OF REGISTRATION OF CONVEYANCE | -/4 |
| 15b | | MEMORIAL OF REGISTRATION OF MORTGAGE | -/4 |
| 15c | | MEMORIAL OF REGISTRATION OF PROBATE, &c. | -/4 |
| 16 | | MORTGAGE IN FEE | 1/6 |
| 17 | | MORTGAGE OF LEASEHOLDS (BY DEMISE) | 1/6 |
| 18 | | MORTGAGE OF FREEHOLDS AND LEASEHOLDS (To two or more Mortgages, money being lent on a joint account) | 2/- |
| 19 | | MORTGAGE TO A BUILDING SOCIETY | 1/6 |
| 20 | | DEED OF FURTHER CHARGE | -/9 |
| 21 | | TRANSFER OF MORTGAGE | -/9 |
| 22 | | RE-CONVEYANCE OF FREEHOLD and release from Mortgage Debt ... | -/8 |
| 24 | | AGREEMENT FOR SALE OF FREEHOLDS | 1/- |
| 25 | | AGREEMENT FOR SALE OF FREEHOLDS (with special conditions) ... | 1/3 |
| 110 | | CHANCERY. Conditions of Sale by order of Court of Chancery... .. | 1/3 |
| 26 | | AGREEMENT FOR SALE OF LEASEHOLDS | -/9 |

Forms settled by the late John Rudall, Esq.—continued.

| No. reqd. | Cat. No. | | Price. |
|-----------|----------|---|--------|
| | 27 | SETTLEMENT. —Of Lady's fortune in a sum of stock, upon trusts for her and Husband successively, for life, and for children of marriage, and if none for the Lady—Covenant to settle Lady's future property. | 1/6 |
| | 38 | CONVEYANCE OF REAL ESTATE UPON THE TRUSTS OF A MARRIAGE SETTLEMENT. —Parties, &c.—Habendum—To use till Marriage, thereafter on Trust of Settlement—Power to Sell with consent—Power to Lease—Application of 23 and 24 Vic. c. 145. | 1/- |
| | 39 | SETTLEMENT OF REAL ESTATE, CONVEYED BY SEPARATE DEED, ALSO REVERSIONARY SHARE UNDER WILL—MONEY AND OTHER PERSONALTY. Parties—Recital—Of conveyance of Real Estate to Trustees of even date—Habendum—In trust for Lady till marriage—And after marriage to pay income to Lady for life—Afterwards for Husband for life—Then for Children as Lady should appoint—In default in trust for Children equally—Hotchpot Clause, &c. | 1/6 |
| | 40 | SETTLEMENT OF MONEY (appointed by Parent under a power)—POLICY OF ASSURANCE, STOCK, DEBENTURES, AND AFTER-ACQUIRED PROPERTY. Recital that Husband possessed of Policy—Agreement to settle same—Transfer of Bonds and Debentures in trust for settlor till marriage—Agreement by Lady's father to pay annual sum, and bequeath a capital sum—And to settle after acquired property of wife—To pay income of "Husband's Fund" to Husband—And income of "Wife's Fund" to Wife—And after death of one, whole income to survivor—Remainder in trust for Children subject to appointment—And in default for Children equally—Hotchpot Clauses—Powers, &c.—Covenant by Lady's father during life to pay annual sum—And to bequeath by his Will a capital sum equal to the annuity—Declaration that Lady's after-acquired property shall be settled. | 2/6 |
| | 42 | SETTLEMENT—POST-NUPTIAL— of a sum of Money, Stock or Shares, on Wife for Life; Capital for Children. | |
| | 28 | APPOINTMENT OF NEW TRUSTEES OF SETTLEMENT | -/6 |
| | 29 | DEED OF SEPARATION. Covenant by Husband—That Wife may live separate, not to molest her nor sue or prosecute any person for receiving or assisting her—That Wife may retain and dispose of personal ornaments and dress—For payment of annual sum during joint lives—Covenant to pay same to Wife for separate use—Covenant by Wife not to molest Husband and to maintain herself. | 6/- |
| | 30 | WILL. Gifts of Furniture to Wife for life—Inventory to be taken—Gift of residue for Children, Daughters' shares being settled on them and their Children—Usual powers and clauses. | 1/3 |
| | 31 | WILL. Gift of Furniture to Wife—Gift of Real and Residuary Personal Estate to Trustees to sell and invest and pay income to Wife till she marries for maintenance of herself and children. If she marries one half only of Income to be paid to her for separate use and subject to provisions for Wife. The whole to be in trust for Testator's Children then living and the Children of those then dead per stirpes—Usual Clauses. | -/10 |
| | 32 | DEED OF DISCLAIMER. Recital of Will and of Testator's death—That Trustees had not accepted the trust—Witnesseth—Disclaimer. | -/6 |
| | 33 | DEED OF DISCLAIMER OF TRUSTESHIP AND EXECUTORSHIP | -/6 |
| | 34 | APPRENTICESHIP INDENTURE. Usual Covenants | -/8 |

FORMS PREPARED AS ENGROSSMENTS.

LEASES—AGREEMENTS—MORTGAGES—EQUITABLE MORTGAGES—BONDS.

Prepared for Originals. Foolscap and Demy size.

| No. reqd. | Cat. No. | | Price. |
|------------------|----------|--|--------|
| 316 | | Lease of a house, parchment each | 2/6 |
| 317 | | Do. do. paper " | -/6 |
| 250 | | Agreement to let a farm, with special clauses " | 1/- |
| 251 | | Do. short form " | 1/- |
| 252 | | Do. for Lease of a farm " | -/6 |
| 253 | | Do. for letting quarterly per qr. | 5/- |
| 253 ^a | | Do. for a short term, landlord paying rates and taxes " | 5/- |
| 258 ^a | | Do. for transfer of a public-house " | 5/- |
| 276 | | Do. for sale of business, stock and premises " | 5/- |
| 277 | | Do. to sell a public-house " | 5/- |
| 263 | | Do. for letting a public-house, inn, or beer-house, with clause for purchasing liquors, &c., from landlords... .. each | 1/- |
| 254 | | Do. to let a house for 1 year per qr. | 5/- |
| 255 | | Do. do. with term in blank " | 5/- |
| 256 | | Do. do. for 3 years, with clause not to permit auction, and allow premises to be viewed at end of term " | 5/- |
| 257 | | Do. to let apartments " | 5/- |
| 258 | | Do. to let offices " | 5/- |
| 259 | | Do. for Lease " | 5/- |
| 260 | | Do. for the sale of Freeholds... .. " | 5/- |
| 261 | | Do. do. Copyholds " | 5/- |
| 262 | | Do. do. Leaseholds " | 5/- |
| 263 ^a | | Do. sale or hire system " | 5/- |
| 264 | | Do. between employer and clerk or assistant " | 5/- |
| 265 | | Do. on deposit of goods by way of lien, with Power of Sale " | 5/- |
| 266 | | Do. of reference to arbitration " | 5/- |
| 267 | | Do. for partnership " | 5/- |
| 329 | | Mortgage of Leaseholds on demy each | -/6 |
| 330 | | Do. Freeholds do. " | -/6 |
| 330 | | Do. do. on parchment bookway " | 2/6 |
| 760 | | Particulars and Conditions of Sale, Freehold, in one Lot, with agreement annexed per qr. | 5/- |
| 762 | | Do. do. in Lots " | 5/- |
| 763 ^a | | Do. do. Leaseholds, with agreement annexed " | 5/- |
| 764 | | Do. do. Copyhold do. " | 5/- |
| 269 | | Deed of Gift of Freehold Property each. | 1/- |
| 270 | | Deed of Gift of Furniture, Personalty, &c. " | 1/- |
| 271 | | Memorandum on deposit of deeds to secure banking account per qr. | 5/- |
| 272 | | Equitable Mortgage with Power of Sale... .. " | 5/- |
| 273 | | Do. do. Promissory Note as collateral security... .. " | 5/- |
| 278 | | Absolute assignment of debts " | 5/- |
| 297 | | Do. do. policy " | 5/- |
| 298 | | Conditional do. do. " | 5/- |
| 299 | | Assignment of policy under Act 30th and 31st Vic., cap. 144... .. " | 5/- |
| 307 | | Bond without condition " | 5/- |
| 308 | | Do. with money condition " | 5/- |
| 309 | | Do. Collateral with Mortgage " | 5/- |
| 324 | | Bond for fidelity " | 5/- |
| 809 | | Form of Statutory Declaration in blank (foolscap) fly-leaf " | 2/6 |
| 810 | | Do. do. do. half-sheets " | 1/6 |
| 811 | | Declaration on Stamping Deed received from Abroad each | -/6 |
| 871 | | Affidavit for Allowance of Spoiled Stamps per qr. | 5/- |
| 312 | | General Release each | -/6 |

WATERLOW BROS. & LAYTON'S

CATALOGUE OF NEW FORMS OF

BILLS OF SALE,

UNDER THE BILLS OF SALE ACTS, 1878 & 1882.

| No. reqd. | Cat. No. | Bills of Sale 6d. each, or 10s. per quire. |
|--------------|-------------|--|
| | 1 | Absolute Bill of Sale (foolscap, 5s. per quire). |
| | 2 | Conditional Bill of Sale, Concise Form. |
| | 3 | The like, payable by instalments, to secure present and future advances. |
| | 4 | The like payable on a fixed date. |
| | 5 | The like payable on demand, covering book-debts, growing crops, fixtures, plant and machinery, to secure past and present advances, with proviso for reduction in rate of interest on punctual payment. |
| | 6 | Conditional Bill of Sale, payable by instalments, with full covenants to secure present advance. |
| | 7 | The like payable on a fixed date. |
| | 8 | The like payable on demand, with proviso for reduction in rate of interest on punctual payment. |
| | 9 | Conditional Bill of Sale, payable by instalments, with full covenants to secure past and present advances, covering growing crops, fixtures, plant and machinery, with proviso for reduction in rate of interest on punctual payment. |
| | 10 | The like payable on a fixed date. |
| | 11 | The like payable on demand with proviso for reduction in rate of interest on punctual payment. |
| | 12 | Conditional Bill of Sale, payable on a fixed date, of chattels, good-will and growing crops, together with book-debts, fixtures, plant and machinery, to secure past, present and future advances. |
| | 13 | The like payable by instalments. |
| | 14 | The like payable on demand, with proviso for reduction in rate of interest on punctual payment. |
| | 15 | Conditional Bill of Sale of chattels, good-will and growing crops, together with book-debts, fixtures, plant and machinery, to secure past and present advances, with bonus, covering after-acquired property, with reduced interest on punctual payment, and attornment clause. |
| | 16 | Assignment of Bill of Sale. |
| | 17 | Bill of Sale by Sheriff of goods taken in execution. |
| | 18 | AFFIDAVIT OF EXECUTION OF BILL OF SALE BY ATTESTING WITNESS, 2s. per quire. |
| | 19 | Ditto, ditto, two attesting Witnesses, 2s. per quire. |
| | 20 | AFFIDAVIT OF RE-REGISTRATION OF BILL OF SALE, 4s. per quire. |
| | 21 | AFFIDAVIT AND CONSENT FOR ORDER TO ENTER SATISFACTION, 4s. per quire. |
| | 22 | Declaration by Grantor of Bill of Sale as to his solvency and that assets assigned not incumbered, 2s. per quire. |
| | 23 | WARRANT OF ATTORNEY AND DEFEASANCE, available as Security for Debt under £30, per quire, 4s. |
| | 24 | Affidavit of execution of Warrant of Attorney, 2s. per quire. |
| | | Also all necessary Forms for Interpleader. |

LETTERS FOR PAYMENT, &c.—POWERS OF ATTORNEY—

TRANSFERS OF SHARES AND BONDS.

| | |
|---|--|
| *876 { Letter for Payment of Debt, <i>Singular</i> | 892 Letter to Agent to serve Process, 2/- |
| *879 { and <i>Plural</i> , 2/- per qre., 25/- per ream. | per quire. |
| *877 { Ditto ditto half-sheets, 1/6 per | 924 Power of attorney to receive pay from |
| *880 { quire, 20/- per ream. | Secretary of State for India, 6d. each. |
| *881 Ditto ditto note size, 1/- per | 310 Power of Attorney to receive Dividends, |
| quire, 12/- per ream. | 6d. each. |
| *888 Ditto ditto of Rent Charge | 311 Ditto ditto money from |
| note size, 1/- per quire, 12/- per ream, | Paymaster-General, 6d. each. |
| singular and plural. | 313 General Power of Attorney, 6d. each. |
| 890 Letter for payment of Dishonoured Bill, | 314 Blank Power, 6d. each. |
| 2/- per quire, 25/- per ream. | 315 Power of Attny. to execute a Deed, 6d. ea. |
| 891 Ditto ditto note size, 1/- per quire. | 321 Share Transfers, 2/- per quire. |
| 12/- per ream. | 322 Do. Co.'s Act, 1862, 3/6 per quire. |
| 891a Letter acknowledging Receipt of money, | 323 Transfer of Co.'s Bonds, 2/- per quire. |
| 2/- per quire, 25/- per ream. | |

AUCTION AND DISTRESS FORMS.

| | |
|---|---|
| 754 Authority to sell effects by auction, 1/6 | 759 Particulars and Conditions of Sale of |
| per quire. | Freehold, in one Lot, 5/- per quire. |
| 755 Distress Warrants, or authority to | 762 Particulars and conditions |
| Distrain, 2/6 per quire. | of Sale, Freehold, in Lots. } With |
| 755a Ditto, half-sheets, 1/6 per quire. | 763a Do. do. Leaseholds. } agreement |
| 757 Distress Notice and Inventory, fly-leaf, | 764 Do. do. Copyhold. } annexed. |
| 3/6 per quire. | 766 Conditions of Sale of Goods |
| 757a Ditto, half-sheets, 2/- per quire. | 767 Tithe Notice of Distress. } 2/- per |
| | 769 Do. Authority to Distrain. } quire. |

PARLIAMENTARY (RAILWAY) FORMS.

| | |
|---|---|
| 951 Railway Reference Books, 4to, 1/6 each. | 958 Receipts for Deposit with Clerk of the |
| 952 Railway Reference Paper, 3/- per quire. | Peace. |
| 953 Assent, Dissent, &c., Paper, 5/- per quire. | 959 Receipts for Deposit with Parish Clerk. |
| 954 Stiff Drab Paper Covers for the same, | 960 Engineer's Estimate of Expenses. |
| with Titles, 2/6 per dozen. | 961 Statement as to Dwellings (Labouring |
| 957 Notice Index Paper, 5/- per quire. | Classes). Persons Displaced. |
| | 962 List of Notices Posted, &c. } 5/- per |
| | 963 Continuation Sheets. } quire. |

NOTICES TO QUIT AND VARIOUS OTHER NOTICES.

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|---|--|
| 895 Notice to quit Apartments, 2/- per qr. | 909a Notice of intention to pay off Principal on Mortgage, 3/6 per quire. |
| 896 Notice to quit, Tenant to Landlord, 2/- per quire. | 910a Ditto requiring payment of Mortgage-money, and of Sale in default, 3/6 per quire. |
| 897 Ditto, Landlord to Tenant, 2/- per quire, fly, 2/6 per quire. | 911a Notice of Assignment of Policy of Assurance, 3/6 per quire. |
| 906 Notice to quit, Landlord to Tenant, at end of current year, fly-leaf, 2/6 per qr. | 912 Ditto to deliver up Goods, 3/6 per quire. |
| 905 Notice to quit, half-sheets, 2/- per qr. | 913 Ditto to drawer of Dishonoured Bills, 2/6 per quire. |
| 908 Notice to pay Rent to Mortgagee, 2/6 per quire. | 955 Notice of Dissolution of Partnership, with Declaration annexed, 5/- per qr. |
| 909 Notice to pay Rent to Attorney of Mortgagee, 2/6 per quire. | |
| 557 Notice to admit, Originals and Copies in Blank for Superior | } 2/- per quire. |
| 563 Notice to produce " " " " " | |
| 564 Notice to Inspect " " " " " | |

* Special forms of Debt, Letters, &c., can be lithographed to order at the same price as the above forms, in quantities not less than five quires of each.

FORMS FOR NATURALIZATION, 2/- PER SET.

ENGROSSMENT OF WILLS ON FOOLSCAP.

6d. each, or 4s. per Dose, with the Instructions.

- | | |
|--|--|
| 390 No. 1. Will disposing of the whole of Testator's Estate, Real and Personal, in favour of a single individual. | 392 No. 3. Devise of Property to Executors in Trust, and to pay proceeds to Testator's Children, with provision for maintenance during minority, and with Clauses for appointment of new Trustees. |
| 391 No. 2. Disposing of Real and Personal Estate in Trust to be converted into Money, and giving the proceeds between certain parties, or the survivors of them, and Devise of Trust and Mortgage Estates. | 393 No. 4. Devise of Property to Wife for Life, and after her death, to Children absolutely. |
| | 394 No. 5. Devise to Wife absolutely. |
| | 395 Instructions for Execution of Wills. |

APPRENTICESHIP INDENTURES.

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|---|--|
| 280 Boys. Blank for Premium or Special Clauses, parchment, 6d. each. | to maintain and provide Clothing, parchment, 1/6 each. |
| 281 Ditto, ditto, paper, 2/- per dozen. | 285 Ditto, ditto, paper, 6d. each. |
| 284 Ditto, without Premium, Clause for payment of Wages, Father or Guardian | 286 Girls. Ditto, Parchment, 6d. each. |
| | 286a Ditto, ditto, paper, 2/- per dozen. |

SHIPPING AND COMMERCIAL FORMS.

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| 700 Agreement to sell Ship. | 706a Shipping Bill, No. 6, Foreign Manufacture. |
| 701 Bills of Lading (common). | 713 Mortgage of a Ship (Steam or Sailing). |
| 702 Ditto (Steam vessels). | 713b Ditto, to secure Account Current. |
| 703 Bill of Sale of Ship (Steam or Sailing). | 716 Protest for Bills. |
| 704 Certificate of Registry. | 721 Declaration of Ownership. |
| 705 Charter-Parties. | 722 Conditions of Sale. |
| 706 Shipping Bill, No. 6, British Manufacture. | |

PARLIAMENTARY AND MUNICIPAL REGISTRATION FORMS ACT, 1878.

(41 and 42 Vict. c. 26.)

PARLIAMENTARY.

- 872 Notice of Claim to Vote.
 873 Do. do. (Lodger).
 874 Do. Objection to be given to Overseers.
 875 Do. do. do. Person objected to.
 875a Do. do. do. Parties already on the Register.

MUNICIPAL.

- 876 Notice of Claim to be given to Overseers.
 877 Do. Objection do. do.
 878 Do. do. do. do. Person objected to.

And all other Forms relating to the above Act.

FORMS UNDER THE SUMMARY JURISDICTION ACT, 1879.

FORMS UNDER THE LAND REGISTRY ACT.

MISCELLANEOUS.

- | | |
|--|---|
| <p>809 Form of Statutory Declaration in blank (foolscap) fly-leaf, 2/6 per quire. 810 Do. do. half-sheets, 1/6 per quire. 811 Declaration on Stamping Deed received from Abroad, 6d. each. 858 Instructions for executing Deeds, 2/6 per 100. 871 Affidavit for Allowance of Spoiled Stamps, 5/- per quire. 312 General Release, 6d. each. 318 Mine Cost Book, notice, 3/- per dozen. 319 Notarial exemplifications, Fcap., 6d. each. 320 Do. do. Foreign, " 327 Memorandum for registering annuity, parchment, 6d. each.</p> | <p>328 Memorandum for registering annuity paper, 2/- per dozen. 268 Schedule of Deeds on Deposit as security, 3/6 per quire. 925 Proxy Papers, 4/- per 100. 925a Do. Companies' Act, 1862, 4/- pr. 100. 926 Banker's Weekly Returns. } 5/- per 927 Do. Monthly do. } quire. 928 Do. Half-yearly do. } 916 Register of Baptisms } Parchment, 917 Do. copies on paper } 1/- each, 918 Do. of Marriages } 10/- per doz. 919 Do. copies on paper } 920 Do. of Burials } Paper, 7/6 921 Do. copies on paper } per quire.</p> |
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Certificates of Baptisms, Marriages and Burials, in Books of 25 and 50 each.

BANKRUPTCY & LIQUIDATION FORMS UNDER THE BANKRUPTCY RULES, 1870.

NOTE.—*In ordering Forms by their Number, please state to what ~~set~~ they relate, thus—"One Quire No. 1 Bankruptcy."*

Bankruptcy Forms 2s. per quire, Parchments 6d. each.

| No. of reqd. | No. of Form. | |
|-----------------|-----------------|--|
| | 1 | Declaration of Inability to Pay. |
| | 1a | Declaration of Inability to Pay, with Certificate. |
| | 2 | Affidavit for Summoning a Debtor. |
| | 3 | Affidavit for Summoning Debtors in Partnership. |
| | 4 | Debtor's Summons. |
| | 5 | Affidavit of Service of Debtor's Summons. |
| | 6 | Substituted Service of Debtor's Summons—Notice in Gazette. |
| | 7 | Substituted Service of Debtor's Summons—Notice in Local Paper. |
| | 8 | Affidavit on Application to dismiss Debtor's Summons not Indebted. |
| | 8a | Affidavit on Application to dismiss Debtor's Summons partly Indebted. |
| | 8b | Affidavit on Application to dismiss Debtor's Summons not sufficiently Indebted. |
| | 9 | Order on Application to dismiss Debtor's Summons—Dismissal with Costs. |
| | 9a | Order on Application to dismiss Debtor's Summons—Debtor ordered to enter into a Bond. |
| | 9b | Order on Application to dismiss Summons—Deposit ordered. |
| | 10 | Petition for Adjudication (Parchment and Paper). |
| | 10a | Petition for Adjudication on failure of Proceedings for Liquidation. |
| | 10b | Petition where two or more Creditors hold security which they are willing to give up for the benefit of Creditors. |
| | 10c | Petition where the Creditors hold Security estimating the value thereof. |
| | 11 | Affidavit of truth of statements in Petition. |
| | 12 | Affidavit of truth of statements in Petition.—Several Deponents. |
| | 13 | Application for appointment of a Receiver or Manager, and Order thereon. |
| | 14 | Affidavit of service of Petition. |
| | 15 | Substituted service of Petition—Notice in Gazette. |
| | 16 | Substituted service of Petition—Notice in Local Paper. |
| | 17 | Notice by Debtor disputing the truth of Statements in Petition. |
| | 18 | Order to stay Proceedings on Petition. |
| | 19 | Bond on stay of Proceedings—On Petition. |
| | 19a | Bond on stay of Proceedings—On Debtor's Summons. |
| | 20 | Notice of Sureties. |
| | 21 | Affidavit of Justification. |
| | 22 | Transfer of Proceedings. |
| | 23 | Dismissal of Petition. |
| | 24 | Dismissal of Petition upon which Proceedings are stayed where Adjudication made on a subsequent Petition. |
| | 25 | Adjournment of Petition. |
| | 26 | Adjudication. |
| | 26a | Adjudication for publication in Gazette. |
| | 27 | Notice of First Meeting in Local Paper. |
| | 28 | Certificate declaring Registrar Trustee. |
| | 29 | Order for First Meeting and for the attendance of the Bankrupt thereat. |
| | 30 | Order of Court for General Meeting of Creditors. |
| | 31 | Restraining Action, &c., after Bankruptcy. |
| | 32 | Affidavit for Proof of Debt, with or without security. |
| | 32c | Affidavit for Proof of Debt by Clerk, with or without security. |
| | 32d | Declaration in Proof of Debt. |

LITHOGRAPHERS AND PRINTERS,

| No. reqd. | No. of Form. | |
|-----------|--------------|---|
| | 33 | Proxy—when not added to Proof. |
| | 34 | Affidavit for Proof of Debt by Agent of a Company. |
| | 35 | Minutes of Proceedings at First Meeting. |
| | 36 | List of Creditors assembled to be used at every Meeting. |
| | 37 | Certificate of Judge for Transfer of Proceedings. |
| | 38 | Report and Certificate of Appointment of Trustee. |
| | | Statement of Affairs for First Meeting. |
| | | A List of Creditors. |
| | | Aa List of Creditors under £10. |
| | | B List of Creditors fully secured. |
| | | C List of Creditors partly secured. |
| 39 | | D Liabilities. |
| | | E Creditors for Rent, Rates, Taxes and Wages. |
| | | F Liabilities on Bills discounted by Bankrupt. |
| | | G Property. |
| | | H Book Debts. |
| | | I Bills of Exchange, &c. |
| 40 | | Bond of Trustee. |
| 41 | | Certificate of Appointment of Trustee. |
| 42 | | Notice in Gazette of the Appointment of Trustee and of Day for Public Examination of Bankrupt. |
| 43 | | Admission of Debt by Debtor of Bankrupt. |
| 44 | | Order to pay admitted Debt. |
| 45 | | Memorandum of Public Examination of Bankrupt. |
| 46 | | Notice of Meeting to be held on Resignation of Trustee. |
| 47 | | Minutes at Meeting for receiving Resignation of Trustee, &c. |
| 48 | | Report and Certificate of Appointment of Trustee to fill a vacancy in the Office. |
| 49 | | Notice in Gazette of intended Dividend. |
| 49a | | Notice to be sent to Creditors who have not proved of intended Dividend. |
| 49b | | Notice in Gazette of Declaration of Dividend. |
| 49c | | Notice of Declaration of Dividend. |
| 50 | | Application by Creditor for Order for Trustee to pay Dividend granted, and Order thereon. |
| 50a | | Application by Creditor for Order for Trustee to pay Dividend not granted, and Order thereon. |
| 51 | | Report of Trustee for closing Bankruptcy. |
| 52 | | Order on Report of Trustee as to the closing of a Bankruptcy. |
| 53 | | Application for Directions by Trustee. |
| 54 | | Order on Application of Trustee for Directions. |
| 55 | | Notice in Gazette of Meeting to authorise the Trustee to accept a Composition. |
| 56 | | Order to stay Proceedings on a Composition, &c. |
| 57 | | Application to annul Adjudication under Sect. 28. |
| 58 | | Order annulling Adjudication under Sect. 28. |
| 59 | | Notice in Gazette and Paper of Bankruptcy having been annulled. |
| 60 | | Application for Release by Trustee and Order thereon. |
| 61 | | Notice in Gazette of a day a Bankrupt will apply for his Discharge. |
| 62 | | Application for Order of Discharge where a Dividend of not less than 10s. has been paid. |
| 63 | | Application for Order of Discharge where the failure to pay a Dividend of 10s. arose through negligence or fraud of Trustee. |
| 64 | | Application for Order of Discharge on a Special Resolution that the Bankruptcy or the failure to pay a Dividend of 10s. arose from circumstances for which the Bankrupt should not be held responsible. |
| 65 | | Application for an Order of Discharge during continuance of Bankruptcy. |
| 66 | | Memorandum of Application for Order of Discharge. |

| No. reqd. | No. of Form. | |
|-----------|--------------|---|
| | 66a | Memorandum of Application for Order of Discharge when suspended or withheld. |
| 67 | | Order of Discharge (parchment and paper). |
| 67a | | Order of Discharge under Resolution of Creditors (parchment and paper). |
| 67b | | Order of Discharge under Resolution of Creditors withheld (parchment and paper). |
| 68 | | Notice to Creditors of a Bankrupt, who has paid an additional sum after close of his Bankruptcy, making up a Dividend of 10s. in the Pound, that he will apply for an Order of Discharge. |
| 69 | | Notice in Gazette of Order of Discharge. |
| 70 | | Notice in Gazette that a Creditor seeks to enforce payment of his debt out of the property of an undischarged Bankrupt. |
| 71 | | Search Warrant. |
| 72 | | Warrant of Seizure. |
| 73 | | Warrant against Debtor about to quit England, &c. |
| 73a | | Warrant against Bankrupt about to Remove or Conceal his Goods, Books, &c. |
| 73b | | Warrant against Bankrupt removing Goods, &c., to the value of £5. |
| 73c | | Warrant against Bankrupt not attending for Examination. |
| 74 | | Subpoena—London Bankruptcy Court. |
| 75 | | Subpoena or Summons to Witness in County Court. |
| 76 | | Summons under Sect. 96, in a County Court. |
| 77 | | Order setting aside Pay, Pension, &c., under Sect. 89. |
| 78 | | Notice to the Bankrupt under Sect. 90. |
| 79 | | Order setting aside Salary or Income under Sect. 90. |
| 80 | | Application for enforcement of Provision in a Composition. |
| 81 | | Affidavit in support of Application for enforcement of Provisions of a Composition under Sect. 28 or 126. |
| 82 | | Order for enforcement of Provisions in a Composition. |
| 83 | | Application by Trustees for Committal of Bankrupt or other person. |
| 84 | | Affidavit in support of Application for Committal of Bankrupt for Contempt under Sect. 19. |
| 85 | | Affidavit of Trustee under Sect. 93. |
| 86 | | Affidavit of Person interested in a Composition for Committal. |
| 87 | | Notice of Application for Committal under Sect. 19. |
| 88 | | Notice of Application for Committal under Sect. 93. |
| 89 | | Notice of Application for Committal under Sects. 28 or 126. |
| 90 | | Order of Committal under Sect. 19. |
| 91 | | Order of Committal under Sect. 93. |
| 92 | | Order of Committal under Sects. 28 or 126. |
| 93 | | Warrant of Committal for Contempt. |
| 94 | | Order for Discharge from Custody on Contempt. |
| 95 | | Warrant to apprehend a Person summoned under Sect. 96. |
| 96 | | Order to Postmaster-General. |
| 97 | | Certificate to Speaker of House of Commons under Sect. 122. |
| 98 | | Order to Summon a Common Jury. |
| 99 | | Order for a Special Jury. |
| 104 | | Estate Book. |
| — | | Loose sheets for ditto. |
| 104a | | "The Record" Book. |
| 105 | | Annual Return to be made by Trustees. |
| 106 | | Petition under Sects. 125, 126. |
| 107 | | Affidavit in support of Petition under Sects. 125, 126. |
| 108 | | Notice to Creditors of General Meeting, with Affidavit for proof of debt annexed. |
| 108d | | Notice to Creditors, &c., with Declarations in proof of debt annexed. |
| 109 | | Affidavit for Proof of Debt under Liquidation. |
| 109e | | Affidavit for Proof of Debt on Bills under Liquidation. |
| 109a | | Affidavit for Proof of Debt by Clerk under Liquidation. |

| No. reqd. | No. of Form. | |
|--|--------------|---|
| | 109c | Affidavit for Proof of Debt by Agent of a Company under Liquidation. |
| | 110 | Request with List of Creditors. |
| | 110a | Request with List of Creditors—continuation sheet. |
| | 111 | Notice for Gazette. |
| | 112 | Order changing Place of Meeting. |
| | 113 | Nomination of Receiver or Manager by Creditors. |
| | 113a | Affidavit as to nomination of Receiver or Manager by Creditors. |
| | 114 | List of Creditors assembled to be used at every General Meeting. |
| | 114a | List of Creditors assembled to be used at every General Meeting—continuation sheet. |
| | 115 | Resolution at First General Meeting where Liquidation by Arrangement resolved on. |
| | 116 | Resolution at First General Meeting where Composition resolved on. |
| | 117 | Notice concerning Second General Meeting. |
| | 118 | Resolution at Second General Meeting. |
| | 119 | List of Bills of Exchange, &c., to be added to Statement of Affairs in cases under Section 26, where necessary. |
| | 120 | Form of Affidavit to be used upon Registration of a Special or Extraordinary Resolution. |
| | 121 | Certificate of Trustee's Appointment. |
| | 121a | Notice convening Special Meeting to consider Discharge, &c., Rule 302 & 305. |
| | 122 | Resolution for Debtor's Discharge. |
| | 123 | Report of Trustee as to Debtor's Discharge. |
| | 124 | Debtor's Discharge (parchment and paper). |
| | 125 | Notice to Creditors to come in and prove their Debts. |
| | 126 | Notice to Claimant of Trustee's rejection of his Claim. |
| | 127 | Affidavit of Computed Amount of estimated Assets or Composition. |
| | 128 | Præcipe on issuing Execution. |
| | 129 | Writ of Fieri Facias on an Order for Payment of Debt admitted in Court to be due to the Estate of a Bankrupt. |
| | 130 | Writ of Fieri Facias on an Order for Payment by Instalments of a Debt admitted in Court to be due to the Estate of a Bankrupt. |
| | 131 | Writ of Fieri Facias on an Order for Payment of Debts admitted in Court to be due to the Estate of a Bankrupt, and Costs assessed by the Court. |
| | 132 | Writ of Fieri Facias on an Order for Payment of Costs to be Taxed. |
| | 133 | Writ of Venditioni Exponas. |
| | 134 | Writ of Elegit on an Order for Payment of a Debt admitted in Court to be due to the Estate of a Bankrupt. |
| | 135 | Writ of Elegit on an Order for Payment of Debt admitted in Court to be due to the Estate of a Bankrupt, and of Costs assessed by the Court. |
| | 136 | Writ of Elegit on an Order for Payment of Costs to be Taxed. |
| | 138 | Affidavit as to Election of Chairman at Meeting of Creditors. |
| | 150a | Assignment for Benefit of Creditors, 1/- each; 10/- per doz. |
| THE BANKRUPTCY RULES, 1871. | | |
| Z 1 | | Notice to Trustee at instance of Comptroller. |
| Z 2 | | Order of Discharge. |
| Z 3 | | Notice in "Gazette" of Dividend declared. |
| Z 4 | | Form of Affidavit on Nomination of Receiver by Creditors. |
| Z 5 | | Order for Payments of Moneys out of Bank of England. |
| Z 6 | | Certificate of no Receipts or Payments by Trustees. |
| Z 7 | | Affidavit of no Receipts or Payments by Trustees in cases where there is no Committee of Inspection. |
| THE FOLLOWING FORMS ARE NOT GIVEN IN THE RULES, BUT HAVE BEEN SPECIALLY PREPARED. | | |
| 137 | | Particulars of Demand and Notice requiring payment. |
| 137a | | Affidavit as to posting Particulars of Demand. |
| 139 | | Notice in "Gazette" of the appointment of Trustee—under Liquidation. |

| No. of reqd. | No. of Form. | |
|--------------|--------------|--|
| | 140 | Application for restraining Action and Order thereon—under Liquidation. |
| | 140a | Restraining Action, &c., when one or more persons restrained under Liquidation. |
| | 141 | Application—under Liquidation. |
| | 141a | Application to Register Resolution. |
| | 142 | Affidavit as to Posting Notices to Creditors. |
| | 143 | Notice of Application to Register Resolutions where Proof objected to. |
| | 144 | Notice of Application to Register Resolution. |
| | 145 | Affidavit that Vote of Creditor, absent from Meeting, had not affected Resolution. |
| | 146 | Notice of Motion. |
| | 147 | Affidavit of service of Notice of Motion. |
| | 148 | List of Registered Letters. |
| | — | List of Registered Letters—continued. |
| | 149 | Affidavit as to Trading. |
| | 150 | Affidavit as to Petitioning Creditor's Debt. |
| | 151 | Affidavit as to Act of Bankruptcy by Declaration of inability to pay. |
| | 152 | Bankrupt's Summons. |
| | 153 | First Meeting. |
| | 154 | Debtor's consent to Adjudication. |
| | 155 | Examination Heading. |
| | 156 | Adjourned Examination. |
| | 157 | Common Order. |
| | 158 | List of Creditors who have proved Debts. |
| | 159 | Adjournment of Debtor's Summons. |
| | 160 | Application for Proofs off File. |
| | 161 | Order for substituted service of Petition. |
| | 162 | Order for substituted service of Debtor's Summons. |
| | 163 | Affidavit as to fitness of Receiver or Manager. |
| | 163a | Affidavit in support of Application as to fitness of Receiver or Manager. |
| | 164 | Summary of Receipts and Payments. |
| | 165 | Order for substituted service of Petition by Advertisement. |
| | 166 | Order for substituted service of Debtor's Summons by Advertisement. |
| | 167 | Affidavit of Search. |
| | 168 | Affidavit of no separate Debts or Estate. |
| | 169 | Affidavit verifying Charges. |
| | 170 | Certificate by Trustee that he has not received any remuneration. |
| | 171 | Certificate by Trustee as to Charges. |
| | 172 | Notice of Application to dismiss Debtor's Summons. |
| | 173 | Request for Proceedings. |
| | 174 | Notice of Dividend under Liquidation. |
| | 175 | Summons of Debtor to Estate. |
| | 176 | Affidavit in support of Application for Restraining Order under Liquidation. |
| | 177 | Notice of Application for Appointment of Receiver. |
| | 178 | Order for Transfer of Proofs. |
| | 179 | Order staying Proceedings on Debtor's Summons without Security. |
| | 180 | Report under Section 84. |
| | 181 | Form of Affidavit. |
| | 182 | Allocature. |
| | 285 | Application for Search. |
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| A. 1. | STATEMENT on Application for Registration of ONE Trade Mark by SOLE PROPRIETOR. | |
| A. 2 | Ditto | ONE Trade Mark by FIRM or Partnership. |
| A. 3 | Ditto | ONE Trade Mark by COMPANY or Corporate Body. |
| B. 1 | Ditto | MORE THAN ONE Trade Mark by SOLE PROPRIETOR. |
| B. 2 | Ditto | MORE THAN ONE Trade Mark by FIRM or Partnership. |
| B. 3 | Ditto | MORE THAN ONE Trade Mark by COMPANY or Corporate Body. |
| C. 1 | DECLARATION to accompany Statement on Application for Registration of ONE Trade Mark by SOLE PROPRIETOR. | |
| C. 2 | Ditto | MORE THAN ONE Trade Mark by SOLE PROPRIETOR. |
| C. 3 | Ditto | ONE Trade Mark by FIRM or Partnership. |
| C. 4 | Ditto | MORE THAN ONE Trade Mark by FIRM or Partnership. |
| C. 5 | Ditto | ONE Trade Mark by COMPANY or Corporate Body. |
| C. 6 | Ditto | MORE THAN ONE Trade Mark by COMPANY or Corporate Body. |
| D. | FORM OF ASSIGNMENT of Trade Mark. | |
| E. 1 | DECLARATION BY TRANSMITTEE applying to be Registered as Proprietor in case of DEATH of Registered Owner.—For Executors. | |
| E. 2 | Ditto | Ditto For Administrators. |
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